BURIED EVIDENCE

UNKNOWN, UNMARKED, AND MASS GRAVES IN INDIAN-ADMINISTERED KASHMIR

a preliminary report

by

Angana P. Chatterji
Parvez Imroz
Gautam Navlakha
Zahir-Ud-Din
Mihir Desai
Khurram Parvez

International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir

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Cover Photograph: Regipora graveyard in Kupwara district

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Address: The Bund, Amira Kadal, Srinagar, Jammu and Kashmir, Pin - 190001, India
Phone: +91.194.2482820
E-mail: tribunal@kashmirprocess.org
Website: www.kashmirprocess.org
Report, supporting video clips, and photographs: http://www.kashmirprocess.org/graves

Queries may be directed to:
Khurram Parvez
E-mail: kparvez@kashmirprocess.org
Phone: +91.194.2482820
Mobile: +91.9419013553

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in association with

Association of Parents of Disappeared Persons
and
Communities in Bandipora, Baramulla, Kupwara, and elsewhere

research associate

Parvaiz Mata

Tribunal Conveners

Dr. Angana Chatterji
Professor, Social and Cultural Anthropology, California Institute of Integral Studies
Advocate Parvez Imroz
President, Jammu and Kashmir Coalition of Civil Society
Gautam Navlakha
Editorial Consultant, Economic and Political Weekly
Zahir-Ud-Din
Vice-President, Jammu and Kashmir Coalition of Civil Society

Tribunal Legal Counsel

Advocate Mihir Desai
Lawyer, Mumbai High Court and Supreme Court of India

Tribunal Liaison

Khurram Parvez
Programme Coordinator, Jammu and Kashmir Coalition of Civil Society

Research Staff

Parvaiz Mata
Three other names withheld

Administrative Staff

Four names withheld

Interns

Three names withheld

Editorial and Technical Assistance

Four names withheld

For biographical briefs of IPTK conveners, legal counsel, and liaison, see www.kashmirprocess.org

The rivers of Kashmir, and across its lands, are the graveyards of our dead.
Woman mourning her son, Baramulla. 2009.[1]

A time to think of everything the earth and I had lost.
Nostalgist's Map, Agha Shahid Ali.[2]

1 Personal communication, International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir, (2009).

2 Lines 57-80, in Faiz Ahmed Faiz. 1991. *The Rebel's Silhouette: Selected Poems*, translation and introduction Agha Sahid Ali, xxv. The University of Amherst Press: Amherst.

Kharbagh, Kupwara District

Chehal Village, Uri Area, Baramulla District

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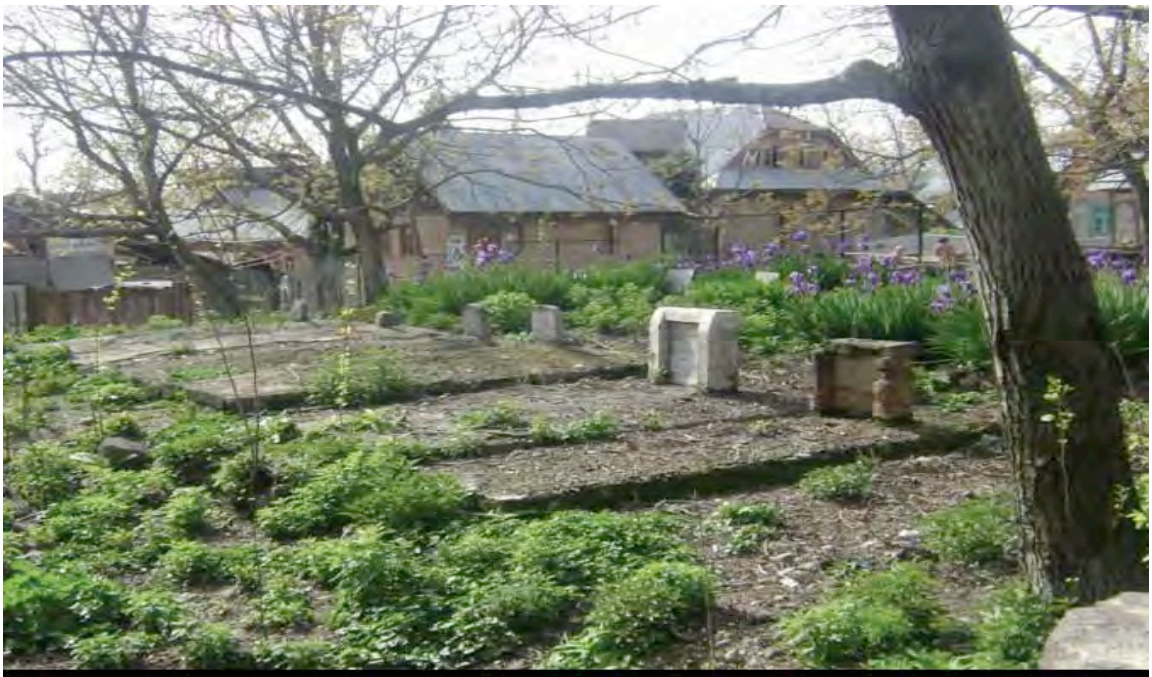

Ajas Graveyard, Bandipora District

Kichama Village, Sheeri Area, Baramulla District

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We extend our gratitude while regretfully withholding the names of those we thank here for fear that noting these names may compromise their safety and security, and place them at greater risk of reprisal.

Regipora Village, Kupwara District

I. Graves

> The songs I sing are songs of death. (Woman mourning her son, Kupwara)[3]
>
> My son was killed in a "fake encounter." Buried by the police as a "Pakistani terrorist." We want justice. We want his name restored. We want his memory healed. (Community elder, Srinagar)[4]

The Indian state's governance of Indian-administered Kashmir requires the use of *discipline* and *death* as techniques of social control. The structure of governance affiliated with militarization in Kashmir necessitates dispersed and intense forms of psychosocial regulation.[5] As an established nation-state, India's objective has been to discipline and assimilate Kashmir into its territory.[6] To do so has required the domestication of Kashmiri peoples through the selective use of discipline and death as regulatory mechanisms.[7] Discipline is affected through military presence, surveillance, punishment, and fear. Death is disbursed through "extrajudicial" means and those authorized by law. Psychosocial control is exercised through the use of death and deception to discipline the living.[8] Discipline rewards forgetting, isolation, and depoliticization.[9]

---

3 Personal communication, International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK, 2008). As appropriate, quotations are anonymous or pseudonyms or aliases have been used, and identities of persons and place names have been listed or omitted, respecting and adhering to issues of confidentiality and security. Insertion(s) within [] in the quotations are ours. Where names have been used, we do so with informed consent, and with hope that noting them will render these names further in the public domain, and in so doing, afford concern and safeguard.

4 Personal communication, IPTK (2009). Srinagar is the capital city of Kashmir.

5 Indian-administered Kashmir includes Kashmir, Jammu, and the Ladakh region.

6 Unless otherwise specified, "Kashmir" refers to Indian-administered Kashmir.

7 Note: The population of Kashmir was recorded at approximately 69,00,000 in 2008, with Muslims, approximately 80 percent of Sufi heritage, constituting approximately 95 percent of the population. Across Jammu and Kashmir, approximately 67 percent of the population was recorded as of Muslim descent, see Office of the Registrar General and Census Commissioner, India. 2001. "Census 2001: State-wise Population by Religion." New Delhi: Government of India. The Census Commission projected the population of Jammu and Kashmir to be 11.4 million in 2008, see Office of the Registrar General and Census Commissioner, India. 2001. "Projected Total Population by sex as on 1st March-2001-2026 India, States and Union Territories." New Delhi: Government of India; *British Broadcasting Corporation*. 2003. "The Future of Kashmir?" (June), date noted in Kanishkan Sathasivam. 2005. *Uneasy Neighbours: India, Pakistan, and US Foreign Policy*, 45. Burlington: Ashgate.

8 Deception operates through systematically distorted communication as the ordering principle in regular interactions between state-legitimated authorities and civilian populations.

9 We draw on the work of Michel Foucault. 1979. *Discipline and Punish: The Birth of the Prison*. New York: Pantheon Press; 1980. *Power/Knowledge*. New York: Pantheon Press; 2000. "Governmentality," in *Power: Essential Works of Foucault, 1954-1984*, Volume 3, ed. James Faubion, 201-22. New York: The New Press; 2007.

Between 1989-2009, the actions of India's military and paramilitary forces in Kashmir have resulted in 8,000+ enforced and involuntary disappearances and 70,000+ deaths, including through extrajudicial or "fake encounter" executions, custodial brutality, and other means.[10] Lawyers have reportedly filed 15,000 petitions since 1990, inquiring, largely unsuccessfully, into the location and health of detainees and the charges against them.[11]

Mourning the dead is a habitual practise of dissent amid Kashmir civil society. The conventional and recognized cemeteries that hold Kashmir's dead are maintained and cared for by local people and organizations. Alongside these cemeteries are other clandestine graveyards, often unnamed, unmarked, undecorated. They exist amid habitations, next to schools and homes, by the roadside and town square, in prayer grounds and forests, at the edges of fields and community cemeteries across rural and urban space.

This research into unknown, unmarked, and mass graves was conducted by the International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK) between November 2006 and November 2009. The graveyards we investigated entomb bodies of those murdered in encounter and fake encounter killings between 1990-2009.[12]

Between November 2006-January 2008, prior to the formal constitution of IPTK, the Association of Parents of Disappeared Persons, a member of the Jammu Kashmir Coalition of Civil Society which instituted IPTK, conducted initial research and released a document in April 2008 with details of certain graves in Baramulla district. Following the constitution of IPTK, between April 2008 and November 2009, the Tribunal scrutinized and re-verified this information, and conducted further and extensive research in the border districts of Bandipora, Baramulla, and Kupwara in northwestern Kashmir.[13]

Security, Territory, Population, Lectures at the Collège De France, 1977-1978. Translation Graham Burchell. New York: Palgrave Macmillan.

10 Including, during 2008, when 151 civilians were reportedly killed. See Angana Chatterji. 2008. "Letter of Appeal to the UN Re. Cases of Security Forces Killing and Injuring Civilians in Kashmir (September 11);" Gautam Navlakha. 2008. "India in Kashmir: Winning a battle only to lose the war?" *Economic and Political Weekly* (43/45) (2008): 43-9; Public Commission on Human Rights. 2006. "State of Human Rights in Jammu and Kashmir." Srinagar: Coalition of Civil Society. For context and history, see Human Rights Watch. 1996. "India's Secret Army in Kashmir." New York: Human Rights Watch; Michael Kolodner. 1996. "Violence as Policy in the Occupations of Palestine, Kashmir, and Northern Ireland." Master's Thesis, Amherst College.

11 They have been supported by approximately 2,00,000 family members of the disappeared seeking restitution, according to the Association of Parents of Disappeared Persons (APDP).

12 "We" refers to the authors of the report and IPTK staff, unless otherwise noted. Encounter killing: Killing of civilians alleged to be involved in armed confrontation with state forces. Fake encounter killing: Extrajudicial killing of civilians, often while they are in the custody of state forces, recorded by officials as resulting from an armed confrontation with state forces instigated by the recently deceased, see Human Rights Watch. 2009. "India: Overhaul Abusive, Failing Police System." New York: Human Rights Watch.

13 These districts in Indian-held Kashmir border Pakistan-held Azad Kashmir and the Northern Areas. (Azad: Free, Urdu.) Traditionally, Bandipora and Kupwara were part of Baramulla district. There are 22 administrative districts in Indian-administered Jammu and Kashmir, with 10 districts in Kashmir. The Siachen glacier is under the control of the Indian armed forces and not under the administration of Jammu and Kashmir.

The graves, their creation and effect, belong to the present history of Kashmir, to a continuing chronicle of violence and violation. The graves are hyper-present in the local imaginary, but rarely spoken of in public. These "secrets" are hidden from/through speech. As a gravedigger in a rural town stated: "They [graves] are there to be noticed and to make us fear them [security personnel]. We all know what they are, where they are, but we cannot say so. To speak of them is treasonous."[14]

Based on our investigations, we note the following:

District	Graves documented by IPTK	Unnamed graves[15] (Of those documented)	Graves with two bodies	Graves with more than two bodies
Baramulla *33 villages investigated*	1122 w. 1321 bodies	1013 90.3 percent	140	17 [Total 76+ bodies]
Kupwara *14 villages investigated*	1453 w. 1487 bodies	1278 87.9 percent	8	4 [Total 30 bodies]
Bandipora *8 villages investigated*	125 w. 135 bodies	82 65.6 percent	6	2 [Total 6 bodies]
Total 3 districts *55 villages*	Total 2700 w. 2943+ bodies[16]	Total 2373 87.9 percent	Total 154 w. 308 bodies	Total 23 w. 112+ bodies

Next-of-kin, community, collective testimony, and archival research evidences that most of the bodies in the graves recorded above were of men. In Baramulla, of the 1,122 graves, approximately 99 percent of those buried were men. Gravediggers and caretakers were unable to give an exact count, given the extent of defacement of some of the bodies. In Kupwara, of the 1,453 graves, 1,451 were of men and 2 of women. In Bandipora, all 125 graves were of men. The context of killings in Kashmir has engendered a landscape where the death of men has rendered vulnerable the living, especially women, children, and other gender identified groups.

Next-of-kin, community, collective testimony, and archival research evidences that, in various instances, "encounter" killings across Kashmir have, in fact, been authenticated as "fake encounter" killings. Post-death, the bodies of these victims were routinely handled by military and paramilitary personnel, including the local police. The bodies were then brought to the "secret graveyards" primarily by personnel of the Jammu and Kashmir Police. In one instance, we learned that the body had been buried on the premises of a police station. In another instance, local communities buried cadavers that had been thrown into a ditch by

14 Personal communication, IPTK (2008).
15 Unnamed at/during the time of our investigations.
16 w.: with. For district and village details, see section entitled "'Exhumed Truths': Kupwara, Baramulla, and Bandipora Districts."

security forces.[17] There are serious allegations that, in particular instances, security personnel have been involved in accepting bribes and smuggling narcotics.[18]

We have been reliably informed that, prior to the delivery of bodies to the "secret graveyards" security forces personnel selected local male residents or professional gravediggers, usually those respected within the local community, and asked that graves be prepared to bury the dead. The graveyards were prevalently constructed on local religious or community owned and/or used land and dug by local residents at the coercion of security personnel. The persons preparing the graves were usually informed in advance of the number of bodies to be buried. Professional gravediggers and local residents who were forced to become gravediggers and caretakers were directed to dig the graves but were largely not supervised by security personnel during the process of digging or burial. In the process of soliciting their labour, gravediggers and caretakers were routinely intimidated and not remunerated for their services.[19]

In Islamic religious ethos and the *Shari'at*,[20] death, and care of the dead, is interpreted as a directive to the living, linked to atonement and forgiveness. Gravediggers and caretakers attempted burial of the corpses in accordance with such tradition. Local community members and gravediggers that prepared the graves routinely constructed one grave per body. When permissible, they offered *Ṣalāt* (prayer) prior to burial. At times, they planted flowers on the graves. For gravediggers and caretakers, the requirement of burial of the dead was prioritized over *whose* body was being inhumed, and its possible identity and political affiliation or non-affiliation.

In instances where the number of bodies brought by security personnel exceeded the initial injunction given by security personnel regarding the number of graves to be prepared, more than one body was buried in each grave. Further, when the killings took place in certain conditions, the bodies involved in those killings were buried together, as noted below. In the 2,700 graves we investigated, the body count was 2,943+. Within the 2,700 graves, 154 graves contained two bodies each and 23 graves contained more than two cadavers. Within these 23 graves, the number of bodies ranged from 3 to 17, including:

Hathlonga village Baramulla district	1 grave. Containing 8 bodies, torched to death in a hut. Security personnel claimed all to be militants. The incident occurred in August-September 1995 between Hathlonga and Nambla village in the Uri area. Security personnel used explosive substances to blast a hutment with 8 persons inside.

17 We learned this through our investigations, see section entitled "'Exhumed Truths': Kupwara, Baramulla, and Bandipora Districts."
18 We learned this through our investigations, see section entitled "'Encounter'/Fake Encounter: An Index."
19 Gravediggers: We refer to professional gravediggers; Caretakers: We refer to those who were forced into grave digging.
20 Shari'at, *Sharī'a*, Islamic law.

Nullah Nigley[21] Leyan Marg Gulmarg Baramulla district	1 grave. Containing 12 bodies buried in the early 1990s.
Gharkote village Baramulla district	1 grave. Containing 16 bodies, torched to death. Security personnel claimed all to be militants killed in the early 1990s. The persons died in mortar shelling on a hut in which they were staying, undertaken by security forces.
Army Brigade Headquarters Rampur, Uri Baramulla district	1 grave. The grave contained numerous bodies. The bodies were entombed in a ditch, reportedly 7.62 metres deep, inside the army camp. The bodies had been deposited in the ditch between 1991-2003. No outside person is permitted to visit the camp.[22]
Wilgam Martyrs Graveyard Kupwara district	1 grave. Containing 5 skulls. Police claimed that all 5 belonged to unidentified foreign militants killed in an encounter with security forces in the Bangas area of Kupwara in 1999. Only the skulls, all extensively damaged, were handed to the locals for burial, who determined to bury them collectively.
Kalarus Main (Martyrs) Graveyard Kupwara district	1 grave. Containing 5 bodies. Kalarus Police handed the skeletal remains (bones) belonging to five bodies to local community members. These human skeletons had been located by a Gujjar livestock herder, from the mountains between Kalarus and Machil, who informed the police about them.[23] Then police handed over all five damaged skeletons in a sack to local residents in November or December of 2007, who buried the bones in one grave to conserve space in the graveyard.
Kanenar Kalarus Graveyard Kupwara district	1 grave. Containing 17 bodies. All torched to death in December 1990 by mortar shelling in the huts located in the vicinity of this grave. All bodies were extensively damaged and buried per the directions of security personnel.

The bodies buried in the 2,700 graves investigated by IPTK were routinely delivered at night, some bearing marks of torture and burns. Photographs of the dead have been reportedly documented by local police stations, even as they are not rendered into the public domain.[24] Systems of identification were developed by gravediggers and caretakers in tagging the bodies prior to burial. Gravediggers and caretakers devised systems through which the bodies were

21 *Nullah*: Tributary of a stream.
22 IPTK spoke with persons who had travelled inside the camp for reasons of work.
23 Gujjar: Tribal group, here, prevalently identified as Muslims. Some Gujjar groups can be migratory.
24 Per the police manual, all dead bodies must be photographed.

identified and kept identifiable for next-of-kin. Identification occurred through clothing, distinguishing characteristics and marks, and/or numbering. The process of identification, dependent on literacy, threat, fear, and other factors, were usually orally recorded and remembered, or recorded in writing.

In instances where, post-burial, bodies have been identified, two methods have been used prevalently. These are 1. Exhumation; and 2. Identification through the use of photographs. In instances where photographs have been used to identify the body, the family/next-of-kin of the deceased has been able to identify the body from the photographs maintained by the police. Following which, graveyard identification records have been able to match the photo of the deceased with the grave in which the body was buried. On occasion, these graves have been exhumed and the bodies transported and re-buried by next-of-kin at the place of residence or family burial grounds of the deceased.

In the discourse of the Indian Armed Forces and the Jammu and Kashmir Police, the dead buried in unknown and unmarked graves are stated to be uniformly "foreign militants/terrorists." They claim that the dead were unidentified foreign or Kashmiri militants killed while infiltrating across the border areas into Kashmir or travelling from Kashmir into Pakistan to seek arms training.[25]

Exhumation and identification have not occurred in sizeable cases. Where exhumations have been undertaken or the bodies in unknown graves have been identified through other means, in numerous instances as detailed below, records indicate the dead to be local people, non-militant or militant, killed in fake encounters.[26]

Our investigations included, and extended beyond, villages and districts in Bandipora, Baramulla, and Kupwara (see details in sub-section, "Methodology," in the section entitled "Context"). From our research into the 2,700 graves in Bandipora, Baramulla, and Kupwara, and additional inquiry into other areas, we note the following:

---

25 While some persons did travel to Pakistan to seek training, such activity was largely confined to the early days of the armed militancy, circa late 1980s through the early-mid 1990s. The graves of such persons killed by the Indian armed forces are usually located *on* the border, in mountainous terrain far away from villages and towns, as, for example, in Gali Nullah, Gulmarg, in Baramulla district, where there exists one grave containing 12 bodies. All were claimed to be militants in the Muslim Janbaz Force (MJF), a Kashmiri organization, and were killed by security forces in May-June 1991 in an ambush attack in the Gali area situated between Tosmaidaan and Afarvat hills. There were 15 members of MJF present, and one survived.

26 For details, see later sections. In Kashmir, local resistance groups distinguish themselves as "militants" and/or "freedom fighters," and further distinguish themselves as "armed militants" or "nonviolent militants." Struggle, armed and nonviolent, is discoursed by dominant India as "terrorism"/"anti-nationalism." Post 2001, as Robert Wirsing (2003, 118) states: "the Kashmiri freedom struggle was being increasingly conflated with….terrorism," see *Kashmir in the Shadow of Rivalries in a Nuclear Age*. New York: M. E. Sharpe; also Talal Asad. 2007. *On Suicide Bombing*. New York: Columbia University Press; Olivier Roy. 2004. *Globalized Islam: The Search for a New Ummah* [community of the faithful]. New York: Columbia University Press.

Of 49 bodies buried + 1 body drowned	
[Whose cases were available for study] [These bodies were from, and had been killed and buried in, numerous districts]	Of these 50 bodies 30 bodies were exhumed 1 was recovered from a lake
[49 were recorded as militants or foreign insurgents by security forces]	All 31 were identified as male All 31 were of Muslim descent
Following investigations: 47 were killed in fake encounters 41 were identified to be local civilians 1 was identified as a local militant 7 remain unidentified None were identified as foreign insurgents	Post-exhumation: 30 were identified as local civilians 1 was identified as a local militant None were identified as foreign insurgents
All those identified were male 39 were of Muslim descent; 4 were of Hindu descent; 7 were not determined	*For details, see section entitled* "'Encounter'/Fake Encounter: An Index"

In certain occurrences of fake encounter killings, where the bodies of victims have been identified, it was found that civilians resident in one geographic area in Kashmir were killed in another area.[27] At times, these bodies were transferred to yet another area, then buried.[28] In one instance, we learned that the killings took place outside Kashmir, for example, in the state of Gujarat in India.[29]

In instances of "encounter" killings, which have later been verified as "fake encounter" deaths, security forces have manufactured the identities of victims, and entered into record a list of arms and ammunition being carried by them. On April 29, 2007, for example, armed forces claimed the killing of four militants of the Lashkar-e-Toiba.[30] Three of the four male bodies were buried in Sedarpora village in Kandi area, Kupwara district. The bodies were brought to local community members by the police, and local community members were required by the police to bury them.

The First Information Report [No. 101/07, dated April 29, 2007][31] filed by the police stated that the deceased were "four Pakistani terrorists identified as 1. Abu-Safayan, 2. Abu-Hafiz, 3. Abu-Sadiq, 4. Abu-Ashraf." The First Information Report (FIR) also stated that "the following war like stores were recovered... A. AK-47 = 4; B. Amm[unition] AK-47 = 170 rounds; C. Magazine AK-47 = 11; ... E. Grenade = 4..." [32]

27 We learned this through our investigations, see section entitled "'Encounter'/Fake Encounter: An Index."
28 We learned this through our investigations, see section entitled "'Encounter'/Fake Encounter: An Index."
29 We learned this through our investigations, see section entitled "'Encounter'/Fake Encounter: An Index."
30 Lashkar-e-Toiba: Islamist militant organization, founded in Afghanistan, banned as a terrorist organization by Australia, India, Pakistan, Russia, United Kingdom, and United States.
31 No.: Number.
32 AK-47, also Avtomat (automatic) Kalashnikov (name of designer), an assault rifle initially developed in the former Soviet Union in 1947.

The bodies of three of the four persons named above were later identified to be residents of Kashmir killed in fake encounters. Their names were identified as Reyaz Ahmad Bhat, Manzoor Ahmad Wagay, and Sartaj Ahmad Ganai. The identity of the fourth body has not been ascertained. Sartaj Ahmad Ganai was identified as a local militant who had joined the militancy on April 1, 2007. Reyaz Ahmad Bhat and Manzoor Ahmad Wagay were identified as ordinary civilians.

Next of kin stated that, in interactions with police and armed forces personnel, those disappeared and/or killed in fake encounters were routinely and uniformly presented as "violent" and "anti-social" without corroboration, and as objects of danger to their families and society. Through organizing deception, Kashmiri Muslim men are posed as agents in cross-border armed militant negotiations, as harbingers of violence to Kashmiri Muslim women *and* the Indian nation.

In another instance, Ali Mohammad Padder was killed in a fake encounter in Ganderbal district on March 7, 2006. Security officials reported Padder to be a foreign militant, named Shaheen Bhai, from Pakistan. Security officials claimed to have recovered an AK-56 rifle.[33] Investigations revealed otherwise: The body was exhumed on February 3, 2007, and identified to be that of Ali Mohammad Padder, a junior employee of the Rural Development Department, and a Kashmiri. A civilian involved in Padder's burial stated: "The left side of his face was mutilated. I suppose they had fired bullets in his head. His shirt was burnt, his eyes had been gouged out, and many parts of his body bore injury marks as if he had been hit by explosives." [34]

In claiming these bodies as uniformly "foreign militants/terrorists," state discourse exaggerates the presence of external groups and cross-border infiltration. State discourse positions cross-border infiltration as critical to mobilizing and sustaining local struggles for territorial and political self-determination.[35] This refutes the contention of Kashmiris that their struggles for self-determination have, through history and the present, been local and endemic.[36]

---

33 An assault rifle developed in 1956, AK-56 is a Chinese version of the AK-47.

34 Personal communication, IPTK (2008-2009).

35 "Self-determination": In this context, the ability of a people to determine their political or national status and future without coercion. Legal and political processes through which the legitimacy of any claims to self-determination may be resolved, or a "people" may define themselves as such, are inconsistent. The Atlantic Charter of 1941 accepts the principles of self-determination, as does the United Nations Charter of 1945, which situated the right to self-determination within international law and diplomacy. Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) states that: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development." Article 15 of the United Nations Universal Declaration of Human Rights endorses the right of individuals to a nationality and the right to change one's nationality. See, Allen Buchanan. 2007. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*. New York: Oxford University Press; Wolfgang F. Danspeckgruber, ed. 2002. *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World*. Boulder: Lynne Rienner Publishers; Martin Griffiths. 2003. "Self-determination, International Society And World Order."

Local community members have also testified that, in addition to the burials, bodies of persons killed by security forces have been disposed of in the Chenab and Jhelum rivers of Kashmir. Local community members testified that, for example, on January 1, 1996, four persons were cast into in the Chenab river in Doda district. Of them, one person survived. According to a statement made by Talib Hussain, the survivor: "On the evening of January 1, 1996, Mohammad Hussain, Fazal Hussain, Faried Ahmad, and I were picked up from the home by members of the Village Defence Committee (VDC)."[37]

VDCs are made operational by security forces and supported by the state. VDC members are recruited by Hindu nationalist/militant groups, and are organized as civilian "self-defence" campaigns and militias. In the understanding of local communities these campaigns are staged as retribution for anti-national activities. A network of VDCs has been instituted throughout the Jammu region and in certain parts of Kashmir. VDC personnel are predominantly of Hindu and Sikh descent, and in some instances include Muslim villagers deemed "trustworthy" by VDC personnel.

The testimony continued: "After finishing our daily work from a brick kiln I was having food at my house with Mohammad Hussain, a colleague and friend of mine, and there was a sudden noise from the outside. We came out of the house and spotted five VDC members in *khaki* dress armed with 303 rifles.[38] Mohammad Hussain was taken away and so was I. They took us to the truck. I thought they would take us for interrogation. I was asked how many children I had. I replied, four, and he said that it was enough. They blindfolded me... I was asked to get out. Then they pushed me toward the Chenab [river]. I was forced to jump, and due to swimming, I survived. I caught hold of a rock. They fired at me. After they left I climbed up to the shore and managed to reach the road and hitch a ride to Kishtwar where I offered prayers. The whereabouts of the other three were not ascertained and their dead bodies were not recovered."

It appears that diverse techniques of rule used by the military and paramilitary in Kashmir generate and circulate death and the fear of death. These techniques of rule are used to kill, and create fear of not just death but of murder. Across Bandipora, Baramulla, and Kupwara, the people who were forced to bury the dead in the unmarked and unknown graves attest to the detrimental psychosocial and physical health impacts they suffered. These graveyards have been placed next to schools and homes and their affect on women and children is daunting.

Macquarie University Law Journal, 1; Hurst Hannum. 1996. *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press; Percy Lehning. 1998. *Theories of Secession*. New York: Routledge; Aleksandar Pavkovic and Peter Radan. 2003. "In Pursuit of Sovereignty and Self-determination: Peoples, States and Secession in the International Order." *Macquarie University Law Journal*, 1.

36 Even when external solidarities were cultivated by militant groups, as in the early 1990s.

37 Personal communication, IPTK (2008-2009). The witness has spoken on public record.

38 Khaki, beige coloured garment, used by Hindu militants/nationalists. A .303 is a British developed (initially in the 1880s) .311 inch calibre rifle.

Massified testaments of state power, these unknown, unmarked, and mass graves seek to produce social death and proscribe remembrance. Acknowledgement and articulation of events that precipitate these deaths are forbidden. Internalization of loss and horror is intended to produce fear and isolation. Keeping alive memory, local communities state, is resistance.[39]

Atta Mohammad, 68 years of age, gravedigger and caretaker at Chehal Bimyar in Baramulla district, testified to burying 203 bodies on a hillside adjacent to the Jhelum river between 2002-2006. These bodies were delivered to him by the police, primarily after dark. In November and December of 2008, two other cadavers were buried in Chehal while he was away from his village, one whose right leg was fractured.

Atta Mohammad stated that the bodies he has buried appear in his nightmares, each in graphic, gruesome detail. "I have been terrorized by this task that was forced upon me. My nights are tormented and I cannot sleep, the bodies and graves appear and reappear in my dreams. My heart is weak from this labour. I have tried to remember all this... the sound of the earth as I covered the graves... bodies and faces that were mutilated... mothers who would never find their sons. My memory is an obligation. My memory is my contribution. I am tired, I am so very tired."[40]

39 We draw on Abdul R. JanMohamed. 2005. *The Death-Bound-Subject: Richard Wright's Archaeology of Death*. Durham: Duke University Press; also Veena Das. 2002. "The Act of Witnessing: Violence, Poisonous Knowledge, and Subjectivity," in Veena Das, Arthur Kleinman, Mamphela Ramphele, and Pamela Reynolds, eds., *Violence and Subjectivity*, 205-25. Berkeley: University of California Press.

40 Personal communication, IPTK (2008-2009). Atta Mohammad has spoken on public record before the State Human Rights Commission in Srinagar, and to members of the local and international press corps.

Hamam Markote, Baramulla District

Kanenar Kalarus Grave, Kupwara District
Grave with 17 bodies

II. Explanations

> There they are, rows upon rows. (Community elder, Regipora, Kupwara)[41]

How should these graves in Bandipora, Baramulla, and Kupwara be characterized? As unknown, unmarked, single, and some multiple and mass entombments? Or, as contiguous displays of death through massified killings and burials? Massacre, gendercide, crimes against humanity function within a continuum of tactics. If the intent of a mass grave is to *perform* death with impunity, with intent to kill more than one, and to forge an unremitting representation of death, then, to that extent, the individual graves within the graveyards IPTK has identified in Bandipora, Baramulla, and Kupwara must be noted as part of a collective burial and display by India's military and paramilitary in creating a landscape and habitus of "mass burial."

Concern

There is a paucity of research, discourse, and discussion on the unknown, unmarked, and mass graves of Kashmir. Such research is fraught with difficulty and danger. IPTK's research was undertaken in extremely tense political conditions within a conflict zone, and IPTK members were intimidated, targeted, and endangered by the Indian military and paramilitary during the process (see later, sub-sections on "Methodology" and "Reprisal"). IPTK has been able to study only partial areas within 3 of 10 districts in Kashmir, and our findings and very preliminary evidence point to the severity of existing conditions. In Baramulla district, we worked in 33 villages from a total of 646 inhabited villages. In Kupwara, we worked in 14 villages from a total of 369 inhabited villages. In Bandipora, we worked in 8 villages from a total of 132 villages.[42]

This inquiry was not conducted in areas that are hyper-proximate to the Line of Control (LoC). We were able to access graves in areas where civilians were not expressly prohibited from entering, even as it remains of concern that such activity may have been carried out, and perverted, in areas that are restricted from the public eye.

IPTK's work is a first and preliminary step in what must be undertaken to disclose the injustices perpetrated in Kashmir. IPTK's findings do not include the forensic study of the exhumations and the conditions of the bodies interred, necessary to documenting evidence of torture and brutality.

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41 Personal communication, IPTK (2008).
42 Number of villages listed is per available state records.

In addition to the graves, as noted earlier, witnesses have testified to dead bodies being discarded into the Jhelum and Chenab rivers in Kashmir. In some instances, local people have notified the police who failed to take action. Witnesses also reported that some bodies were retrieved by local community members from the riverbanks. These bodies had been carried there by the flowing waters. Local community members retrieved the bodies and buried them in conventional community graveyards. This issue, as well, requires in-depth investigation.

IPTK's findings are important in establishing the existence of a sequence of graves and graveyards containing unknown, unmarked, and mass graves in Kashmir, and in collecting local testimonies, and photographic and video evidence.[43]

The intensity of IPTK's findings are indicative of what would potentially be uncovered, with regard to single, multiple, and mass graves and the numbers of people killed, if independent and transparent investigations were permitted in Indian-administered Kashmir. As well, if independent investigations were to be undertaken in all 10 districts, it is reasonable to assume that the total number of disappearances since 1989 would correlate with the number of bodies in unknown, unmarked, and mass graves.

We note that, from our investigations, it appears that in a majority of instances related to enforced disappearances, civilians have been detained during cordon and search operations, locally termed "crackdowns." In certain instances, non-combatant Kashmiris have been killed in fake encounters following detention, and labelled as foreign militants.

The Government of India and the Government of Jammu and Kashmir (functioning with the authorization of India) allege that the disappeared were militants that emigrated to Azad Kashmir in Pakistan to seek arms training. The families of the disappeared refute these charges. Consecutive state governments of Jammu and Kashmir have made divergent statements regarding the number of disappeared.[44]

Crimes Against Humanity

Disputed Jammu and Kashmir continues to be a flashpoint in the conflict between India and Pakistan. Disputed Jammu and Kashmir stretches across India-held Jammu and Kashmir, Pakistan-held Azad Jammu and Kashmir, and a portion controlled by China.[45] India currently

43 See Uniform Resource Locator (URL): http://www.kashmirprocess.org/graves.

44 For example, on February 25, 2003, Mufti Sayed, then Chief Minister of Jammu and Kashmir, stated that, "3,744 persons disappeared in between 2000 to 2002. 1,553 persons got disappeared in 2000. 1,586 went missing in 2001 and 605 in 2002." On June 11 , 2003, the same chief minister stated that 3,744 persons were reported missing between 1990 and December 31, 2002. During a state assembly session in February-March 2006, Ghulam Nabi Azad, then Chief Minister of Jammu and Kashmir, stated that a total of 693 disappearances had been registered. On September 1, 2007, at the State Legislative Assembly, Taj Mohi-Ud-Din, then Consumer Minister of Jammu and Kashmir, stated that, "Between the period of 1990 to October 1996, 33 reports of persons going missing in custody were received while 56 persons disappeared in custody from 1996 to November 2002. From November 2002 to this time [September 2007], 22 persons have disappeared in the custody security forces."

45 Access to Pakistan-administered Azad Kashmir remains restricted and human rights violations are kept silent,

controls the largest portion of disputed Jammu and Kashmir, including the Kashmir Valley, Jammu, Ladakh, and much of the Siachen glacier. Pakistan controls Azad Kashmir and the northern areas of Gilgit and Baltistan, and China controls Aksai Chin and the Shaksgam Valley. The conflict in disputed Jammu and Kashmir has been ongoing since October 1947.[46] The conflict in disputed Jammu and Kashmir pertains to issues of territorial and resource control, including the resources of the Siachen glacier.

In Indian-administered Kashmir, the period between 1947-1987 witnessed people's struggle for the right of self-determination through nonviolent militant action. The people's armed resistance began in 1988. The armed struggle of the 1990s abated between 2004-2007, again becoming nonviolent resistance.[47]

In Indian-administered Kashmir, since 1989, mass and intensified extrajudicial killings, violence, and brutalization have been part of a sustained and widespread campaign by the Indian state and its military and paramilitary forces against Kashmiri civilians. These actions have been undertaken to suppress political and civil society opposition to Indian military rule.

The methodical and planned use of killing and violence in Indian-administered Kashmir *constitutes crimes against humanity* in the context of an *international* conflict.[48] As well, we

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see Zafar Iqbal. 2009. "The undercurrents of human rights, terrorists and extremist tendencies prevalent in Pakistan controlled Azad Jammu & Kashmir." Azad Jammu and Kashmir: Press for Peace. Also see Human Rights Watch. 2006. "'With Friends Like These': Human Rights Violations in Azad Kashmir." September, Volume 18, No. 12(C). New York: Human Rights Watch.

46 Note: Kashmir's status remains disputed. Article 370, included in the First Schedule of the Constitution of India, recognizes the special status and autonomy of the state of Jammu and Kashmir, and imposes a limit on the reach of the Constitution of India other than to provisions of the Seventh Schedule relating to the Instrument of Accession (and the Delhi Agreement of 1952). These provisions have been refuted since 1953. The United Nations Resolution 47, passed in 1948, calls for a plebiscite to decide Kashmir's future. Also see United Nations Resolutions 38, 39, 51 of 1948; United Nations Resolution 91 of 1951; and the reports of the United Nations Military Observer Group in India and Pakistan (UNMOGIP). The UNMOGIP was constituted in January 1949 to "supervise the ceasefire agreed between India and Pakistan in the State of Jammu and Kashmir. Since renewed hostilities in 1971, UNMOGIP monitors the ceasefire called for by the United Nations Security Council," see UNMOGIP website (2009). The United Nations was ineffective in preventing the wars of 1947-8, 1965, and 1971 between India and Pakistan, and in Kargil in 1999. Note: India and Pakistan secured independence from the United Kingdom on August 15 and 14, 1947, respectively.

47 Anonymous. 1995. "Blood in the Valley: Kashmir - Behind the Propaganda Curtain." Bombay: Lokshahi Hakk Sanghatana; Sumantra Bose. 2005. *Kashmir: Roots of Conflict, Paths to Peace*. Cambridge: Harvard University Press; Alastair Lamb. 1997. *Incomplete Partition: The Genesis of the Kashmir Dispute, 1947-1948*. Hertingfordbury: Roxford Books; Michael Deibert. 2007. "Kashmiri Separatist Seeks End To Armed Struggle," *The Washington Times* (February 25).

48 See "crimes against humanity" as defined in Article 7 of the Rome Statute of the International Criminal Court, adopted on July 17, 1998, and entered into effect on July 1, 2002. *India is not a party to the Rome Statute.* [Note: There is work being undertaken to configure a "Specialized Convention on Crimes Against Humanity." However, various practitioners of international humanitarian law consider specialized conventions to be unnecessary, as the Rome Statute defines and grants jurisdiction over crimes against humanity.] For "international conflict," see the Geneva Conventions of 1949 and the two additional protocols, Protocols I and II, of 1977 which are the principal instruments of humanitarian law. See International Humanitarian Law, Convention (III) relative to the Treatment of Prisoners of War. Geneva, August 12, 1949, Common Article 2 and 3. Common Article 2 states that the Geneva Conventions are applicable to all instances of declared international conflict. Common Article 3 defines that

note that crimes against humanity may be committed irrespective of the type or presence of conflict. Here, we refer to the type of conflict to highlight Kashmir as an international issue, and to note that, therefore, some of what has transpired may fall within the purview of war crimes.

These killings are not part of "war" in the traditional sense, as India does not recognize itself to be at war with Kashmir, given that India understands Kashmir to be a part of its dominion. Kashmir civil society participates in administrative, bureaucratic, and political spheres of the Indian state in Kashmir. However, disproportionately large segments of Kashmir civil society understand themselves to be subjugated and annexed for political and other purposes by the Indian state and its institutions.[49]

Therefore, India's role in Kashmir may be interpreted as constitutive of annexation and, in instances, subject to the rules of war under the covenants pertaining to International Humanitarian Law. Therefore, the executions portrayed here may be interpreted as crimes against humanity and, in instances, as war crimes. The situation portrayed here may be interpreted under International Humanitarian Law as an annexation where *Jus ad bellum* law applies, rendering applicable Common Article 2 of the Geneva Conventions.[50]

Even as it has been stated that a "low intensity war continues" across the borders of Kashmir-India-Pakistan, India's military rule *within* Kashmir is not officially recognized by the international community. India's prolonged battle on the northwest border, connected to enforcing and unifying territory and identity as a nation, may be interpreted as linked to a war on Kashmir. The rights violations committed by India's security forces in Kashmir are tactical to maintaining its dominion. A slow war within Kashmir is discoursed as a "low-

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specific minimum norms of war must apply to armed conflicts that are not recognized to be of an international character. Protocol I, pertaining to international armed conflicts, is additional to the Geneva Conventions of August 12, 1949, relating to the Protection of Victims of International Armed Conflicts. Protocol I is an amendment to the Geneva Convention of 1949, adopted on June 8, 1977, by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts. Also see, the Third Geneva Convention (GCIII), Article 4. Those falling outside of the protections defined in Protocol I are subject to "Fundamental Guarantees" under Article 75 of Protocol I.

49 Such identification circulates within a large segment of the Muslim population, including women and youth, and among the small remaining Pandit Hindu population in Kashmir. Nonviolent resistance and civil disobedience intensified during 2008 and 2009, see *British Broadcasting Corporation*. 2008. "Muslims in huge Kashmir protest" (August 22); *Kashmir Times*. 2008. "Entire Valley Under Siege" (August 24); Somini Sengupta and Yusuf Jameel. 2008. "Deadly Force Used to Halt March in Kashmir," *New York Times* (August 11); Ishfaq Mir and Shabir Ali. 2009. *Associated Press*. 2009. "World Briefing: Kashmir: Police Fire On Protesters," *New York Times* (June 9); Parvaiz Bukhari. 2009. "Omar jumps gun on Shopian," *India Today* (June 12); "June Ghost Revived in Shopian," *Rising Kashmir* (June 1); *Kashmir Observer*. 2009. "Girls Take Up Justice Cry, Brave Police Force" (June 10); Lydia Polgreen. 2009. "2 Killings Stoke Kashmiri Rage at Indian Force," *New York Times* (August 15).

50 *Jus ad bellum*, Latin: Justice to war, defined as a "Branch of law that defines the legitimate reasons a state may engage in war and focuses on certain criteria that render a war just," see Karma Nabulsi, Crimes of War, http://www.crimesofwar.org.

intensity conflict" necessitated in response to "cross-border terrorism," masking the interests of state that organize the whole of Kashmir as a military zone.[51]

In identifying Kashmiri Muslims as dangerous anti-national elements and targeting this population as an internal enemy, the Indian state's governance systemically perpetuates, and makes visible, *death* as strategy to achieve its specific political and nationalistic objectives. The message to the people of Kashmir, through these strategies of governance that produce and circulate death, is "You are our enemy. We are here to protect you from you." "Safety" is made synonymous with submission to violent governance. Through these dynamics, the Indian state seeks to domesticate the local Kashmiri population and integrate Kashmir into its national identity and territory.

"Externally," the Indian state also seeks to control the 550 kilometre Indian Kashmir border along the 740 kilometre-long disputed Line of Control (also ceasefire line), which today coheres with the territorial demarcations established at the end of the 1947-1948 war between India and Pakistan, also known as the "First Kashmir War."[52]

The graves in Kashmir include bodies of extrajudicial, summary, and arbitrary executions, as well as massacres committed by the Indian military and paramilitary forces.[53] These executions have necessitated collaborations between the armed forces, the paramilitary forces such as the Central Reserve Police Force, and the state police. In Kashmir, in particular instances, graveyards may include bodies of those killed in combat or armed confrontation as recorded by the Indian military and paramilitary forces. However, in numerous instances where exhumations and identifications have taken place, what security forces label as "combat" and "armed confrontation" killings are found to be, in actuality, extrajudicial killings.

In instances where the dead were established to have been killed in "encounters," security personnel have not followed established norms and protocols relating to the laws and customs of war as relevant to those captured or killed.[54]

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51 Indo-Asian News Service. 2009. "Kashmir on alert amid fears of militant incursion: Police Chief," *Thaindian News* (March 25).

52 Armed forces on the ground have repeatedly disputed interpretations of the Line of Control as established by the Simla Agreement of 1972. For communities residing there, the Line of Control is an arbitrary marker that has adversely affected kinship, gender relations, economy, environmental sustainability, and cultural survival.

53 Extrajudicial, summary, and arbitrary executions: State-authorized or sanctioned killings that take place outside of recognized legal procedures or conditions, and in the absence of recourse or channels for appeal, and processes that seek to hold perpetrators accountable, see General Assembly 51st Session, Agenda item 110b, "Human Rights Questions: Human Rights Questions Including Alternative Approaches for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms; Extrajudicial, summary or arbitrary executions; Note by the Secretary-General." Massacre is used to denote extrajudicial killings of a number of persons, at least three according to the Special Rapporteur, see Guidelines for the Conduct of UN Inquiries into Allegations of Massacres, 1995, DPI/1710.

54 See Hague Convention. 1907. Laws and Customs of War on Land (Hague IV) Article 42. Defines international modalities of war and war crimes. While laws of war are binding on states and individual members of its armed forces, it must be noted that these laws and customs are not enforceable, nationally or internationally, and remain binding only to the extent that compliance does not intervene on securing stated military objectives.

The First Geneva Convention (GCI), Article 17, the Third Geneva Convention (GCIII), Article 120, and the Fourth Geneva Convention (GCIV), Article 130, adjudicate that parties with custody of those wounded, ill, interned, and/or prisoners of war that die must attend to the bodies, and where possible attend to them in accordance with "the rites of the religion to which they belonged."[55] GCIII, Article 121, mandates that "an official enquiry by the Detaining Power" be undertaken in instances where prisoners of war are injured, or killed, or where the cause of death is unknown.

Within the purview of these conventions, the Indian state must be required to undertake an inquiry into the unknown graves. However, while India is a party to the Geneva Conventions, it is not a signatory to Hague II or Protocol I or II of the Geneva Conventions.[56]

The formal wars between India and Pakistan must be held subject to established protocols, which are understood to be a part of the customary law of nations. However, in the continuing conflict, the Indian military and paramilitary forces have not established transparent protocols relating to jurisdiction and criminal liability in Kashmir regarding prisoners of war, enemy prisoners of war, or combatants, insurgents, and guerrillas that are held in prolonged custody or killed.

Killings undertaken by the Indian military and paramilitary forces have occurred in a context where the structure of the conflict has involved parties engaged in guerrilla warfare, and even operating outside of established nation-states or seeking to be stateless persons.[57] These parties in Kashmir have included external soldiers, combatants, insurgents, and guerrillas (from across the border), and internal combatants (of armed militancy during 1988-2007 in Kashmir and, 2007 onwards, of unarmed militancy and civil disobedience mobilized by local groups).

In maintaining an undeclared conflict, India's militarization in Kashmir is justified as necessary to securing the India-Pakistan border, and, as such, having no brutalizing impact that is *internal* to Kashmir.[58] India's militarization is portrayed as an "internal" matter, while refusing transparency, international scrutiny, and adherence to international standards and customary practises of conflict and war.[59] Internal use of force is explained as the eradication

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55 Article 45 of Protocol I of the Geneva Conventions clarifies that a "person who takes part in hostilities and falls into the power of an adverse Party" may be deemed as a prisoner of war if the detainee claims such status, is deemed by the detaining power to be entitled to the status, or if the detainee's Party claims such status on behalf of the detainee.

56 However, since 1971, India is signatory to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity of 1968.

57 Guerrilla warfare, in this instance, may be understood as unconventional warfare or combat where small group(s) of combatants use mobile strategies, such as surprise attacks, to target a formal internal or external army and its establishments or institutions, and civilian localities. Note: Mechanisms for accountability relating to personnel of the armed forces exist. "Stateless persons," see United Nations Convention relating to the Status of Stateless Persons (1954), Article 28.

58 See Protocol II of the Geneva Conventions, pertaining to non-international conflicts.

59 These strategies have become routinized in international contexts, where, for example, per the Military Commissions Act, 2006, the United States has used the term "unlawful enemy combatant" to absolve itself of

of "anti-national elements" within Kashmir society that collude with cross-border groups. These anti-national elements are seen as dangerous to themselves and as undermining of India's national interest. Kashmiris are given the directive of proving their allegiance to the Indian nation through assimilation and dissociation from efforts of self-determination.

Official state discourse conflates cross-border militancy with present nonviolent struggles by local Kashmiri groups (and separatist leaders with divergent positions), portraying local resistance as "terrorist" activity. The Indian state and certain media institutions link Kashmir civil society to a discourse of "terror," even as present-day civil society dissent is almost entirely principled, peaceable, and locally conceptualized. Islam, Muslims, and violence are equated and connected by official and dominant discourses. However, the role of the Indian state in prompting the armed militant violence of the 1990s or its responsibility for inducing cycles of violence through sustained militarization remains invisibilized outside of public discourse and certain media representations.

Official figures state that there are few, about 800-1,000, militants in Kashmir presently. While the Indo-Pak border remains the official reason for the militarization of Kashmir, a key focus/impact of militarization continues to be the brutalization of Kashmiri peoples.[60] In the prolonged conflict, 6,67,000 Indian military and paramilitary personnel act with regularized impunity to regulate movement, law, and order across Kashmir.[61]

While the Government of India has made repeated declarations regarding the internal demilitarization of Kashmir, it must be noted that in March 2007, three government committees on demilitarization resolved that the "low intensity war continues," halting any action on troop reduction.[62] When certain cursory reductions in troops have been made, they are influenced by political interests and not those of human rights.[63]

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culpability, see Mark David "Max" Maxwell and Sean M. Watts. 2007. "Unlawful Enemy Combatant: Status, Theory of Culpability, or Neither?" *Journal of International Criminal Justice*. ICJ 5(1), 19-25. Maxwell and Watts state that "Mainstream use of the term 'unlawful combatant' originated in 1942 with the US Supreme Court case of Ex Parte Quirin. In Quirin, eight Nazi saboteurs who entered the United States during War World II challenged their detention and denial of prisoners of war protections. The Court held that: By universal agreement and practice, the law of war draws a distinction between ... lawful and unlawful combatants. Lawful combatants are subject to capture and detention as prisoners of war by opposing military forces. Unlawful combatants are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful."

60 See Angana P. Chatterji, Parvez Imroz, Gautam Navlakha, Zahir-Ud-Din, Mihir Desai, Khurram Parvez. 2009. "Militarization with Impunity: A Brief on Rape and Murder in Shopian, Kashmir." Srinagar: International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir.

61 Including counter-terrorism operations commandeered by approximately 32,000 security personnel. Indian military and paramilitary have been prevalently aligned with Hindu majoritarian interests vis-à-vis Kashmir. The police are reportedly 81,370 strong in Kashmir and there are 20,000 special police officers. The paramilitary Central Reserve Police Force (CRPF) have 75,000 personnel and have been progressively trained to function in corresponding capacity to the military. The slogan of the CRPF, "CRPF Sada Ajay; Bharat Mata Ki Jay," [CRPF Always Victorious; Hail/Victory to Bharat Mata/Mother India] mirrors certain convictions of Hindu supremacist organizations in masculinizing the nation, calling for extremist nationalism, see welcome message on the CRPF website (2009).

62 Indo-Asian News Service (2009).

63 See Reuters. 2009. "India Withdraws Some Kashmir Troops in Peace Gesture," *The New York Times* (October

Continued militarization is accompanied by the use of draconian laws, such as the Armed Forces Special Powers Act, 1958, and the Disturbed Areas Act, 1976. These laws provide legal immunity to security forces for international crimes, and enable continued impunity, and in turn authorize the continued perpetration of crimes.

These and other laws permit security personnel to raid houses, question, and detain without chargesheets, overlook intimidation and torture, and permit security forces to shoot and kill on the basis of unauthenticated suspicion. An unaccounted for number of persons have been arrested under the Jammu and Kashmir Public Safety Act, 1978, Prevention of Terrorism Act, 2002, and Terrorist and Disruptive Activities (Prevention) Act, 1985, and detained without due process.

State surveillance in Kashmir is aided by the Central Bureau of Investigation and the Research and Analysis Wing.[64] Special laws, regulations, and restrictions are enforced in Jammu and Kashmir, as well as the Ranbir Penal Code (XII of 1989 [Act XII of 1932]).[65]

The state of exception/exemption that is accorded to, and expected by, security forces leads to an incentivization of violence.[66] It has been reported that acts of suppression and violence have been deemed as "acts of service." Human Rights Watch (2006, 65-6) reported a procedure of compensations and promotions rewarding security forces for killing presumed insurgents. The obfuscation of such acts, and the failure to prosecute perpetrators, incentivizes state forces to act with impunity, attesting to the fluid boundaries between "legality" and "illegality."

The impact of this "unspoken" conflict has had damaging psychosocial consequences. Mental health professionals note that Kashmir has a very high rate of people with suicidal behaviours.[67]

Mass Graves

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64 Central Bureau of Investigation (CBI) is India's investigative agency in charge of criminal and national security issues, and acquisition of criminal intelligence. The Research and Analysis Wing (RAW) is India's intelligence agency on external matters.

65 Ranbir Penal Code is the special penal code operational in Jammu and Kashmir, see Jammu and Kashmir Government. 1971. Ranbir Penal Code (XII of 1989 [Act XII of 1932]), 762-961.

66 Human Rights Watch (2006, 28) has noted that, "Army and paramilitary forces deployed in the state by the federal government are protected by the immunity provisions of the Criminal Procedure Code of 1973," see Human Rights Watch. 2006. "'Everyone Lives in Fear': Patterns of Impunity in Jammu and Kashmir." New York: Human Rights Watch. Section 45 of the Criminal Procedure Code protects security personnel from detention for "anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central [Federal] government." Section 197(2) require prosecutors seek permission from the Government of India prior to undertaking criminal proceedings involving public servants, see Criminal Procedure Code, Government of India.

67 In 2008, more than 68,000 visited Kashmir's sole psychiatric hospital, risking social stigma, to receive outpatient care, IPTK (2008-2009).

There is an absence of conclusive agreements internationally on the parameters used to define "multiple" and "mass" graves.[68] A mass grave may be identified as containing more than one, and usually unidentified, human cadaver. A mass grave may contain more than one cadaver of persons who are identified with physical and cultural characteristics used to legitimate their death by the perpetrators. There are no specified definitions or agreements on the minimum number of bodies in a grave that constitutes a mass grave or the contexts in which they may be found.

Cox et al. (2008, 10) elaborate on a contextual framework, defining a mass grave as "a demonstrable place of deliberate disposal of multiple dead within the same grave structure."[69] In defining protocols for forensic evidence collection, Schmitt (2002) refers to mass graves as they result from crimes against humanity, war crimes, or genocide.[70]

Skinner (1987, 268) states that: "A mass grave contains many (at least half a dozen) individuals."[71] Haglund, Connor, and Scott (2001, 57) state that: "Mass, of course, means a large quantity or aggregate, usually of considerable size."[72] The United States Army (2004, 14) states that a mass grave contains "three or more human remains."[73] Mant (1987, 10-21) states

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68 See Debra Komar. 2008. "Patterns of Mortuary Practice Associated with Genocide: Implications for Archaeological Research." *Current Anthropology* 49(1): 123-33.

69 Cox et. al. (2008) elaborate that mass graves can be "criminal in nature and some ranging from practical solutions to crises." Mass graves, for example, may contain bodies of victims of political crimes and environmental disasters. Cox et al. state that to define a mass grave as only a place of "deliberate disposal of multiple dead" without specifying their context is an over-simplification, see Margaret Cox, Ambika Flavel, Ian Hanson, Joanna Laver, and Roland Wessling. 2008. *The Scientific Investigation of Mass Graves: Towards Protocols and Standard Operating Procedures*. New York: Cambridge University Press.

70 Stefan Schmitt. 2002. "Mass Graves and the Collection of Forensic Evidence: Genocide, War Crimes and Crimes Against Humanity," in William D. Haglund and Marcella H. Sorg, eds., *Advances in Forensic Taphonomy: Method, Theory and Archaeological Perspectives*, 277-92. New York: CRC Press. Certain instances of mass graves include Nanjing, China, dug in 1937, with thousands of bodies from among the 3,00,000 estimated deaths; Gvozdavka-1, near Odessa, Ukraine, dug in circa 1941, thousands of bodies; Sobibor camp, Poland, between 1942-1943, 2,50,000 bodies; Dachau, Germany, dug in 1944-1945, 7000+ bodies; Tarkalan, Iraq, dug in 1980s, 40 bodies; Juarez, Mexico, 1993-2002, 8 bodies in one grave; Mabanza, Rwanda, 1994, 7,000+ bodies; Srebrenica, Bosnia, dug in 1995, thousands of bodies; Chemmani village, near Jaffna city, Sri Lanka, 1995-1997, 300 bodies; Northern Afghanistan, Afghanistan, dug in 1996, 2,000 bodies; Ranch of Carlos Castano, Colombia, dug in 1997-1998, 17 bodies in one grave; Darfur, Sudan, 2003-2009, 45 bodies in one grave; Bavi town, Ituri district, the Democratic Republic of Congo, 2006, 30 bodies in one grave. Mass graves have also been investigated in recent history in Argentina, Cambodia, Chechnya, Croatia, Peru, Punjab, Slovenia, Kosovo, Sarajevo, in El Salvador following the El Mozote massacre, in Iraqi Kurdistan and Iraq; and in Rwanda in Kibuye and Kigali. Multiple sources used, list at http://www.kashmirprocess.org/graves.

71 Mark Skinner. 1987. "Planning the Archaeological Recovery of Evidence from Recent Mass Graves." *Forensic Sciences International* (34): 267-87.

72 William D. Haglund, Melissa Connor, and Douglas D. Scott. 2001. "The Archaeology of Contemporary Mass Graves." *Historical Archaeology* 35(1): 57-69.

73 Dennis M. Hatcher and Kathryn Roe Coker (733rd Military Police Battalion). 2004. "The Global War on Terrorism: Operation Iraq Freedom." Fort McPherson: Office of Army Reserve History, United States Army Reserve Command.

that two or more bodies buried in contact with each other may define a mass grave.[74] Cox et al. (2008) and Haglund (2002) states all graves to be distinct and cautions against simplification.[75]

The United Nations Commission of Experts (1992) defined a mass grave as a location containing two or more bodies, "intended as a place of permanent interment."[76] In 2002, at a briefing on Afghanistan held by the United Nations, it was noted that: "The United Nations has traditionally used the term [mass grave] to refer to locations where three or more victims 'of extrajudicial, summary, or arbitrary executions' are buried, not having died in combat or armed confrontation. Others simply use the term to refer to sites in which multiple persons are buried." The spokesperson added: "The term mass grave might imply a connection to summary executions or massacres."[77]

Kashmir

In Kashmir, the graves IPTK investigated contain the bodies of victims of extrajudicial executions and unproven "encounter" killings by India's military and paramilitary forces. These graves adhere to a spatiality wherein their "location" or "limit" are not confined to individual graves but extend across the entirety of the space of the graveyard in which the bodies have been collectively interned.

Schmitt (2002, 279) states that mass graves are clandestine.[78] In Kashmir there is covert and localized information about their location and contents, while their existence is silenced and refuted in public discourse. During the course of IPTK's research, it has become apparent that we would not be able to locate these graves without the active guidance and participation of local community members. Further, in keeping with the furtive nature of disposing bodies, persons that died in one place were transported and buried in another location, even at a great distance.

The discourse of the Indian armed forces detailing their fight against "terrorists" and infiltrators in Kashmir reverberates loudly even as the actual identities of those killed in encounters are obfuscated and the bodies of those killed remain hidden. This conceals the interposing of "encounter" with "fake encounter" killings. Civilian killings are portrayed as "encounter" deaths to legitimate militarization. Militarization, in turn, is used to enable civilian killings.

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74 A. K. Mant. 1987. "Knowledge acquired from post-war exhumation," in A. Boddington, A.N. Garland, and R.C. Janaway, eds., *Death, Decay and Reconstruction, Approaches to Archaeology and Forensic Science*, 10–21. Manchester: Manchester University Press.

75 William D. Haglund. 2002. "Recent Mass Graves, an Introduction," in William D. Haglund and Marcella H. Sorg, eds., *Method, Theory, and Archaeological Perspectives*, 243-61. New York: CRC Press.

76 Final report of the United Nations Commission of Experts, established pursuant to Security Council Resolution 780 (1992).

77 Briefing by Manoel de Almeida e Silva, Spokesperson for the Special Representative of the Secretary General, Afghanistan, April 11, 2002.

78 Schmitt (2002, 279) states that: "In Guatemala, for instance, mass graves of the 1980s military's anti-insurgency campaign are referred to as clandestine graves... The secrecy, however, lies not in their locations but in the repression of any acts that might commemorate the event that led to the mass fatality."

Local residents who were solicited and forcibly employed to dig the graves were Muslim men who were often given body counts but not specific instructions about how the graves should be constructed. The graves were constructed by local gravediggers and caretakers, buried individually when possible, and specifically not en mass, in keeping with Islamic religious sensibilities. In instances where the body count exceeded the graves prepared, more than one dead were placed within a single grave. Security forces permitted local diggers to conform to religious sensibilities to produce the intended, yet diffused and clandestine, effect of mass death.

Those buried in the graves in Bandipora, Baramulla, and Kupwara were interred over an extended timeframe. Individual dead were interred contiguously in a gravesite in a manner that used the religious sensibilities of the local community to configure a collective display of death and fear across an expanse of land. Information about the graveyards of the unknown dead in one community circulates through informal information networks to others. This collective display functions allegorically, as retribution and warning, to discipline civil society.

Chewah Graveyard, Safapora, Bandipora District

Lachipora B, Chakipora, Baramulla District

III. Context

> Children ask us about these graves. Children ask us why soldiers are everywhere. Children grow up here thinking violent death is "natural." (Community elder, Baramulla)[79]

India and Pakistan have continued to nuclearize South Asia.[80] Pakistan faces critical national security issues across the Afghanistan-Pakistan border, as misogynist groups in the region continue to enact violence. These groups have been emboldened by the civic, economic, and political breakdown of Afghanistan and the military and political stratagem of the United States in the region, and the inability of international institutions to support Pakistan's security.[81] Pakistan's security issues are compounded by the actions of its ruling elite. These circumstances are used to legitimate India's continued militarization of Kashmir and subjugation of Kashmiris. The international community is remiss in not noting the refusal of Kashmiri society to align with external groups and their insistence on peaceable struggle in the present. This determination by Kashmiri society has been the most effective in curbing the ability of cross-border groups from securing a presence in Kashmir. This reality is contrary to the discourse circulated by New Delhi.[82] However, if the present conditions in Kashmir are permitted to continue, it is only likely that they would induce further cycles of violence.

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79 Personal communication, IPTK (2009).

80 Navlakha 2008.

81 See Peter Beaumont. 2009. "Same old mistakes in new Afghan war," *The Guardian* (October 18); Elisabeth Bumiller and Mark Landler. 2009. "Civilian Goals Largely Unmet in Afghanistan," *The New York Times* (October 11); Andrew Buncombe and Omar Waraich. 2009. "Pakistan starts huge offensive against Taliban," *The Independent* (October 18); Ahmed Rashid. 2009. "Analysis: No end in sight for Pakistan's struggle against the Taliban," *The Telegraph* (October 17). Post-9/11, the Taliban and its affiliates have continued to tyrannize Afghanistan, and infiltrate into the border areas of Pakistan. Taliban: Ultra conservative, violent, and misogynist Afghan Mujahideen group that ruled Afghanistan between 1996-2001. Afghan Mujahideen groups were financed and their training facilitated by the Cold War policies of the former Soviet Union and the United States, as well as Saudi Arabia, China, and other European and non-European nations. The Taliban consolidated its power with another Afghan Mujahideen group, al-Qaeda, and its leader Osama bin Muhammad bin 'Awad bin Laden. In 2001, the attacks on the World Trade Centre in New York and the Pentagon in Washington, D.C. (District of Columbia) on September 11 were orchestrated by al-Qaeda, as four planes were turned into weapons, leaving nearly 3,000 dead, violating the very premise of humanitarian ethos. Mujahideen, Arabic: Self-identified freedom fighters; literally, those in struggle, in this context, waging a holy war in the name of Islam. See Lydia Polgreen and Souad Mekhennet. 2009. "Militant Network Is Intact Long After Mumbai Siege," *The New York Times* (September 29); also Antonio Guistozzi, ed. 2009. *Decoding the New Taliban: Insights form the Afghan Field*. New York: Columbia University Press.

82 See Naseer A. Ganai. 2009. "Resolve Kashmir: Omar Tells Delhi," *Greater Kashmir* (October 14). Note: New Delhi is the capital city of India.

A peaceable Jammu and Kashmir is critical to stability amid Afghanistan-India-Pakistan. Attempted "peace" processes between India and Pakistan have not included civil society members of disputed Jammu and Kashmir in any meaningful way, while India remains inflexible in resisting internationalization of the Kashmir issue. In response to pressure from the Indian state, and its attendant hyper-nationalist and Hindu majoritarian advocacy groups, including those in the diaspora, United States foreign policy has desisted from including disputed Jammu and Kashmir as an integral component to determining "peace" and "security" in the South Asia region.[83]

Political Situation and Rights Violations

India's security forces have occupied 10,54,721 kanals of land in Indian-held Jammu and Kashmir.[84] On this land, 671 security camps have been established in Kashmir.[85] The structure and placement of the camps enforce contact between women, children, and security forces and create contexts in which gendered violence is regularized.[86] The widespread use of torture in detention camps and interrogation centres, in particular against men and male youth, has impacted 60,000+. As many as 1,00,000 have been orphaned.

Gendered and sexualized subjection has been definitive of militarized nationalism across Indian-administered Kashmir, enacted with impunity by the military and paramilitary. Violence against civilian men expands spaces for enacting violence against women.[87] Women have been forced to disproportionately assume the task of caregiving to disintegrated families and undertake the work of seeking justice following disappearances and deaths.

Mental health professionals note that incalculable numbers have experienced gendered and sexualized violence, including the use of rape as a means of torture.[88] Gendered violence has been utilized to shame and punish the culture. Male youth and men refusing to participate in

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83 *The Cable*. 2009. "India's stealth lobbying against Holbrooke's brief." *Foreign Policy* (January 23); Emily Wax. 2009. "U.S. Removes Kashmir From Envoy's Mandate; India Exults," *The Washington Post* (January 30).

84 Which totals 1,31,840 acres. Note: 8 kanals = 1 acre. The Government of Jammu and Kashmir noted that 8.55 lakh kanals were held illegally, Arif Safi Wani and Muddasir Ali. 2009. "Troops occupy 10.40 lakh kanals in JK," *Greater Kashmir* (August 24). Further, security forces were in possession of 1,572 buildings in Kashmir. A lakh = 1,00,000.

85 Athar Parvaiz. 2009. "Conflict threatens wildlife in Kashmir," *OneWorld South Asia* (February 6); figures have been assembled from other archival material and IPTK sources.

86 Security personnel have searched, initiated unsolicited physical contact, detained, leered, teased, passed lewd remarks, psychologically degraded, propositioned, extorted, physically harassed, molested, and assaulted girls/minors and women in the course of everyday life. Where villages are encircled by security camps, and family members are surveilled and their movements regulated, they have been unable to leave to report the matter. In certain instances, women who do not observe the *hijab* or *burkha* have been compelled to use the same to create a barrier to the unsolicited and undesirable advance of soldiers, see Chatterji et al. 2009. Hijab: Here, refers to the scarf worn by Muslim women to cover their hair; Burqa, also *burkha*: a head-to-ankle outer garment used as a cloak.

87 See also Radhika Coomaraswamy. 2001. "Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)." Commission on Human Rights, United Nations document E/CN.4/2001/73.

88 See Asia Watch (A Division of Human Rights Watch) and Physicians for Human Rights. 1993. "The Human Rights Crisis in Kashmir: A Pattern of Impunity." New York: Human Rights Watch.

the sexual servitude of women have been sodomized and men have been forced to witness rapes of women and girl family members. Women whose male partners are missing, "half-widows" and widows have been victimized.[89] "Half-widows" do not qualify for state support, such as pensions offered to "widows," while they are marginalized from securing property rights under prevalent structures of property ownership customary in heteronormative contexts in South Asia, including in dominant interpretations of Islamic law.[90]

Extensive surveillance and the practice of illegal and long detentions by the legal system remain regularized.[91] Hundreds of thousands have been displaced, including approximately 2,50,000 Kashmiri Pandits of Hindu descent.[92] International organizations and institutions, that are allowed access to other places, are not permitted to visit Kashmir. The denial of passports to human rights defenders and journalists continues to sustain disconnection and isolation.[93]

Per state records, 458 cases seeking sanction of prosecution have been filed between 1990-2007. Of these, 46 are related to armed forces personnel, including on charges of rape.[94] The psychological health and stability of the Indian armed forces is in serious contention. In Kashmir, 34 soldiers committed suicide in 2008, and one instance of fratricidal killing was reported. In 2005, 44 cases of suicide and 10 cases of fratricide were reported.[95] A total of 52 fratricidal killings were reported between January 21, 2004 and July 14, 2009. A total of 169 soldiers committed suicide between January 2002 and September 2009.

Contemporary Kashmir civil society dissent continues in response to histories of betrayal that have forcibly included Kashmir in assembling the Indian nation-state. Kashmir is signified as a symbol of unification in domesticating Muslim subjects to Indian (Hindu majoritarian-secular) rule, and the Indian military and paramilitary have been predominantly aligned with

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89 Altaf Hussain. 2007. "The plight of Kashmir's 'half-widows,'" *British Broadcasting Corporation* (December 4).

90 See James A. Goldston, Patricia Gossman, and the Asia Watch Committee. 1991. "Human Rights in India: Kashmir Under Siege." Washington D.C.: Human Rights Watch; Asia Watch and Physicians for Human Rights (1993); Internal Displacement Monitoring Centre. 2007., and Project Ploughshares. 2008. "Armed Conflicts Report: India-Kashmir; India: Large numbers of IDPs [internally displaced persons] are unassisted and in need of protection." Also see, Human Rights Watch. 1991. "Abdication of Responsibility: The Commonwealth and Human Rights." New York: Human Rights Watch.

91 Personal communication, IPTK (2008-2009).

92 Approximately 209 [some state 765] Kashmiri Pandits have been killed, see Muzamil Jaleel. 2008. "209 Kashmiri Pandits killed since 1989, say J-K cops in first report," *Indian Express* (May 4); Muzaffar Raina. 2008. "Pandits in poll to get home," *The Telegraph* (November 20). It must be noted that the Indian state has used/attempted to use various segments of the Pandit community toward religionizing the issue, seeking to subvert Kashmiri Muslim claims to self-determination and subvert Muslim-Pandit allied/contested positions on self-determination.

93 Public Commission on Human Rights (2006); Association of Parents of Disappeared Persons. 2008. "Facts Under Ground: A fact-finding mission on nameless graves & mass graves in Uri area." Srinagar: Coalition of Civil Society; Angana Chatterji. 2008. "Disquiet Ghosts: Mass Graves in Indian Kashmir," *The Daily Etala'at* (July 9).

94 We draw on court documents made available to IPTK. "Sanction of prosecution": Formal permission by state or central government authorizing prosecution against a public servant for alleged crimes committed while discharging duty. Section 197, Code of Criminal Procedure, 1973, provides protection against the prosecution of public servants that committed offences while on official duty.

95 Shujaat Bukhari. 2009. "Yoga, counselling to relieve stress among J&K troops," *The Hindu* (January 30).

Hindu majoritarian interests in Kashmir.[96] Forms of militarized domination in Kashmir are infused with gender and racialized dynamics, wherein Muslims are portrayed as "violent," "anti-national," and "enemy."[97] These discourses present the conflict as significantly a religious one, in stark contrast with Kashmir civil society. Predominantly, among Kashmiris, identity and culture is viewed as syncretic and inclusive of diverse faith traditions.

In May-July 2009 and August-September 2008, Kashmir witnessed uprisings, as millions of people engaged in nonviolent protest, calling out for *"Azaadi."*[98] In June-August 2008, widespread peaceful protests dissented Hindu nationalist demands for control of pilgrimage land linked to the Amarnath shrine.[99] The Indian state permitted Hindu nationalists to riot in Jammu while perpetrating armed violence on unarmed protesters in Kashmir. Reminiscent of the early 1990s, curfews, accompanied by shoot-at-sight orders, were imposed in Kashmir, resulting in 60 deaths, as 2,000 civilians were injured (approximately 600 injured by bullets). Doctors, ambulances, hospitals, and journalists were targeted by India's security forces.[100]

People's Tribunal

The International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir convened on April 5, 2008, instituted by the Public Commission on Human Rights, a constituent of the Jammu Kashmir Coalition of Civil Society, with the support of other groups and individuals. Prior to that, in July 2006, we determined to institute a people's tribunal, and resolved to undertake substantive research and advocacy work with civil society before formally announcing the IPTK. Between January 2007 and March 2008, we charted the purpose and course of the Tribunal. Stakeholders in civil society across rural and urban spaces were keen that this process be instituted.[101]

A People's Tribunal may be assembled in response to growing concerns of human rights violations, to evaluate the impact of social violence perpetrated on victimized and disenfranchised groups, to examine whether and how the rights and freedoms of the groups were deteriorating, being compromised, or refused. A People's Tribunal may be constituted as

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96 See Mridu Rai (2004) *Hindu Rulers, Muslim Subjects: Islam, Rights, and the History of Kashmir*. Delhi: Permanent Black.

97 See Partha Chatterjee. 1993. *The Nation and Its Fragments*. New Jersey: Princeton University Press; Angana P. Chatterji. 2009. *Violent Gods: Hindu Nationalism in India's Present; Narratives from Orissa*. Gurgaon: Three Essays Collective; Richard Shapiro. 2009. "A Just Peace in Kashmir? Reflections on Dynamics of Change," *Rising Kashmir* (August 13).

98 Azaadi: Urdu, freedom. See Arundhati Roy. 2009. *Field Notes to Democracy: Listening to Grasshoppers*. New Delhi: Haymarket Books. On June 10, 2009, Amnesty International stated that, civil society protests "are about the ongoing failure of the Indian government to bring members of the security forces to justice for serious human rights violations. Until the Indian government provides accountability for the conduct of the armed forces in Kashmir, it will continue to face discontent from the residents," see "One killed, 150 injured, as protests continue in Jammu & Kashmir following rape and murder of two young women," press statement.

99 The protesters against the land transfer expressed their support for the (Hindu) pilgrims, evidencing the secular nature of their struggle, and the inclusive ethos of Kashmiri culture.

100 Chatterji (2008); Navlakha (2008).

101 For IPTK's premise, see website. To maintain integrity and independence of this process, see determined to finance the work of the Tribunal from our incomes. For a context regarding IPTK's formation, see, Mallika Kaur Sarkaria. 2009. "On Trial: Human Rights in Kashmir." *Harvard Kennedy School Review*. Volume 9: 59-64.

a fact-finding and remedial mission after an event and/or act as a preventive and injunctive mechanism toward avoiding future injustices. A People's Tribunal may arise from a growing concern about human rights crises in the areas of religious, economic, social, political, cultural, and self-determination rights. These rights, and access to them, may be worsening in the face of inadequate attention from relevant authorities and institutions. A Tribunal's goal may be to create greater awareness of these violations and corresponding human rights abuses, those already carried out, or those being planned and yet to be executed, and situations and circumstances that incite and engender predictable and unpredictable violations.

IPTK is constituted as a people's collective, convened in alliance by persons from Indian-administered Kashmir and India. The purpose of this collective is to undertake an inquiry into the history of the present in Indian-administered Kashmir, through soliciting the participation of civil society to reflect on the past, toward framing and energizing public space in the present, and for determinations of the future.

Building on its mandate from the submissions of civil society, this People's Tribunal calls on the international community to recognize the juncture at which functions and failures of governance intersect with the culture of militarization in Indian-administered Kashmir.[102] These realities, through neglect, indifference, or complicity, continue to reproduce cycles of violence that are gendered and classed, religious and ethnic in their effects, with ever increasing social, political, economic, environmental, and psychological consequences that affect private, public, and everyday life.

The Tribunal seeks to examine charges of, and expand awareness and understanding regarding, institutionalized violence, social trauma, and human rights abuses. The Tribunal further seeks to develop recommendations for justice, reparations, and healing, in alliance with ethical, peaceable grassroots processes and civil society groups and individuals that dissent such conditions as named above. The Tribunal seeks to increase concern, and ethical, constructive, and creative participation of the local and international community toward justice, peace, and security in the region.

In undertaking its investigative work, IPTK solicits the participation of diverse peoples and groups from Indian-administered Kashmir, as well as from India and other places in South Asia, and from the international community. IPTK relies on the willingness of victims and others affected to testify to their experiences and circumstances, as well as on the participation of credible and competent persons, especially those not enacting political agendas, to document such testimonies, develop records, and assess the evidence within participatory, sociolegal, and human rights frameworks. IPTK relies on testimony, story, oral

102 An "international community" is constituted through intentional will and practise. "Internationalization" itself is problematic, even as it remains imperative, from a Kashmiri civil society standpoint. All nation-states retain their own record of human rights violations, as evidenced by the actions of the United States in Afghanistan and Iraq. It, therefore, remains impossible to attempt a resolution of the Kashmir issue without the engagement of the very institutions that have contributed to the present crisis in Kashmir.

histories, and archival research, and relevant government and court records, film and photography, and other methods and documents to form the evidentiary basis of its work.

Inquiry

The Tribunal is inquiring into the architecture and fabric of military presence, militarization, and governance in Indian-administered Kashmir, and their subsequent and continued impact on civil society, political economy, infrastructure, development, local government, media, bureaucracy, and the judiciary. The Tribunal is inquiring into instances of intense and regularized violence as charged by civil society, such as torture, gendered and sexualized violence including rape, disablement, killings, executions, enforced disappearances, interrogations, detentions, and devastations by landmines. The Tribunal is investigating the distinctions between the "judicial" and "extrajudicial" as drawn by the Indian military and paramilitary forces and asking if and how the structure of militarization furthers impunity, and impacts legal and moral accountability on part of the state.

The Tribunal is inquiring into forms of disempowered, reactive, and violent resistances on the part of groups engaged in militancy, and instances of outside intervention. The Tribunal will inquire into the probable intersections between the injustices perpetrated by Indian military and paramilitary forces and those enacted by militants, deepening and continuing cycles of repression.

Further, the Tribunal is inquiring into the activities of Hindu nationalist organizations. The Tribunal also proposes to inquire into forms of resistance mounted by civil society, and the corresponding demands for justice from various segments of civil society in Indian-administered Kashmir, including people's demand for the right to self-determination, and its meanings.

The Tribunal is inquiring into the actions of the Indian state and its institutions, as widely established by human rights organizations, to examine concerns and allegations of the structure and fabric of militaristic violence on the part of state institutions, and examine the conditions of injustice therein, drawing on provisions established by the Constitution of Jammu and Kashmir, Constitution of India, and international laws and conventions.

Why Indian-administered Kashmir?

The Tribunal is limiting its primary investigations to Indian-administered Kashmir, and selectively to Jammu and Ladakh. While issues in Pakistan-administered Kashmir and those of outside groups that engage in militancy are of political, social, and ethical significance, the decision and justification to focus on Indian-administered Kashmir is based on the following: It is crucial to highlight the experience of militarization in Indian-administered Kashmir. A large body of scholarly work suggests that its structure and institutionalization over the last 60 years, has produced extreme consequences in the region. What are the present conditions that result from this history?

It must be noted that access to areas that have experienced heightened military presence and violations in Indian-administered Kashmir remain limited and, given the politics of borders, it is only conceivable for organizations and individuals working in Indian Kashmir to access areas restricted to its current borders as defined by the Line of Control.

This Report

This report records an anthropology of violence. Our inquiry was concerned with human subjects and their capacity to locate, identify, verify, and contextualize unknown, unmarked, and mass graves in Indian-administered Kashmir. We seek to include the erudition and understanding of caretakers, gravediggers, families, and witnesses so that their concerns and local and subjugated knowledges may find place and representation here. We seek to document a counter-memory of realities that appear to be systemically silenced and restoried by official, ruling discourses.

This report confines its observations to the specific context of unknown, unmarked, and mass graves, even while it refers to other areas of violation within Indian-administered Kashmir. The report elaborates on some of the reasons and examples upon which the recommendations in the last section are premised.

We emphasize, however, that this preliminary report on unknown, unmarked, and mass graves is not exhaustive, and points to only a few of the instances wherein such burials have taken place, and the broader and egregious ongoing violations in Kashmir.

The report will be made available to the public, and translated into relevant languages, specifically Kashmiri and Urdu. The purpose of this report is to focus attention on the findings, and to make recommendations in a remedial and preventive capacity.

IPTK will use the findings of this report to generate information and develop public awareness in relevant local, regional, and international fora, and present its findings to various bi-lateral, multi-lateral, and state institutions, and citizen's groups and human rights organizations.

A copy of the report in portable document format (PDF), as well as colour photographs, additional video documentation, and archival materials are available on IPTK's website.[103]

Methodology

Our objective was to: 1. Identify unknown, unmarked, and mass graves within selected districts; 2. Inquire into instances where photographic verifications and/or exhumations had taken place, both within, and outside, the districts where we identified unknown, unmarked, and mass graves.

103 See http://www.kashmirprocess.org/graves

The selection of places where IPTK investigated and inquired into instances where photographic verifications and/or exhumations of killings had taken place were contingent on local testimony and attendant records. The viability of undertaking the inquiry was determined by access to the place of residence, incident, and/or burial of the deceased, and/or where records and testimonies were available.

The selection of districts, and locations within districts, where IPTK investigated and worked to identify unknown, unmarked, and mass graves were based on: 1. The urgency communicated by local people, and the willingness and ability of local people to testify, including gravediggers and caretakers, family members of the dead, and eyewitnesses; 2. Accessibility to the graveyards, seeking out locations where the graveyards were not situated in restricted areas; 3. Prioritizing locations with multiple burials, rather than single graves;[104] 4. The security concerns of those with direct knowledge of, and involvement with, the graves as well the security of IPTK members, and our ability to move about freely in order to undertake the inquiry.

We initiated our inquiry to identify unknown, unmarked, and mass graves in the border districts of Kashmir, which have been subject to particular forms of militarization and attendant discursive and physical violences. In conjunction, in Kashmir, we focused our investigations extensively in the border districts of Bandipora, Baramulla, and Kupwara. We also undertook additional work in Anantnag, Budgam, Ganderbal, Shopian, and Srinagar districts of Kashmir, and in Doda, Poonch, and Rajouri districts of Jammu.

After instituting IPTK in April 2008, we circulated notices informing the public of IPTK's mandate, and announcing that they may submit information about unknown and unmarked graves, including anonymously. On receiving information, we proceeded to ascertain and authenticate its viability and undertake initial research, prior to embarking on an extensive inquiry into any particular site.

We used crossdisciplinary methodologies in applied research, social sciences, the humanities, and law, in documenting oral histories and written testimonies. These methodologies were crafted with attentiveness to the particular social, political, and cultural context we wished to engage. All research was conducted in locally spoken/used languages, which were Kashmiri and Urdu prevalently, and some English. All IPTK members are conversant in locally used languages, especially Urdu, while most have knowledge of Kashmiri. We conducted research training with staff and informants, and maintained rigorous supervision through the entire process.

We used conversation, observation, interview research, and formal interview methods, in individual, private, and collective settings, emphasizing depth and detail, and multiple corroborations of statements. Predominantly, interviews were conducted in-person, and any phone interviews were followed up in-person. We recorded the interviews on paper, tape,

104 Even as we undertook to investigate few single graves, as noted in the section entitled "'Exhumed Truths': Kupwara, Baramulla, and Bandipora Districts."

and/or video. We took photographs, and on certain occasions, video documentation. We developed careful criteria for the selection of those we determined to interview. We undertook careful and critical verification of the credentials and credibility of those we interviewed and the veracity of the information we received, eliminating dramatizations and unauthenticated statements.

We prioritized engaging and interviewing those with direct knowledge and involvement with the graves, incidents, burials, identifications, and exhumations, for example, caretakers, gravediggers, families of the dead, witnesses, and lawyers. Further, we engaged local civil society members and human rights advocates and groups. In writing this, we met with a range of lawyers, journalists, academics, activists, medical experts, and psychiatrists.

We wish to note the assistance we received from women grieving their dead. We wish to acknowledge that even as the numbers and names of the dead recorded here are disproportionately those of men, women's lives have been subjected to immense and regularized violation. We also spoke with former local Kashmiri militants who had engaged in armed struggle and are now peace activists. We note that, in certain instances, local security forces personnel and state employees have testified to us and requested anonymity. As well, we attempted to contact senior government and security forces officials, requesting information and explanations. Our requests were declined. As well, we spoke with and consulted legal and independent experts on mass graves and international protocol and law.

We learned that local communities across Kashmir insist on remembrance as a practise of resistance. To forget, they say, would be to reconcile to injustice. In supporting and respecting their wishes, we acknowledge that remembrance and speech, as silence, are fraught, complex and partial, and difficult. We were exceedingly careful and cautious in not furthering violence or re-traumatizing through knowledge production in soliciting victims, survivors, and witnesses.

During the process of inquiry, we adhered to international protocols regarding research with human subjects. We developed protocols in maintaining respect, dignity, and anonymity of those testifying, and ensuring that all participation was voluntary. We determined guidelines for safeguarding the security of individuals and information to the best of our ability through the research process. When certain forms of grief accompanied speech, we encouraged and recommended that the respondent/research partner-participant seek culturally appropriate and available forms of support, including community and counselling.

All statements pertain, and are limited, to the research undertaken and verified by IPTK between 2006-2009, and refer only to the evidence secured through our research. We drew on official documents: policy and legal papers, dossiers, affidavits; oral statements, signed statements, and observations. In undertaking archival research, we drew on print, electronic, and other media; and institutional literature, pamphlets, reports, and statements produced by organizations. We drew on archival material that largely exists in the local languages, and legal literature in Urdu, Hindi, and English.

We triangulated and combined the above methods in developing records, assessing them within rights-based and ethical frameworks, and corroborating the reputability of social facts. Further, we undertook outreach, alliance building, and advocacy with civil society coalitions.

Reprisal

Working on the issue of unmarked, unnamed, and mass graves in a continuing conflict zone poses specific methodological challenges, and issues in security. In June 2008, IPTK undertook investigations in Kupwara and Baramulla. In July 2008, the European Parliament passed a resolution on the graves issue in Kashmir, and the European Parliament Subcommittee on Human Rights convened a special hearing on the graves issue in Kashmir at which IPTK Conveners Angana Chatterji and Parvez Imroz testified.[105] During this process, IPTK Conveners Angana Chatterji, Parvez Imroz, and Zahir-Ud-Din were targeted, and IPTK Liaison Khurram Parvez was extensively monitored.

On June 20, 2008, Chatterji and Imroz were detained by state forces while undertaking investigations in Kupwara district.

On June 30, 2008, Imroz and his family were targeted, reportedly by security personnel, and a grenade hurled at their home. The text of the FIR submitted by Imroz is reproduced in Appendix I.

In late July 2008, following an article Chatterji authored for *The Daily Etala'at* on the graves and the testimony presented by Chatterji and Imroz to the European Parliament's Subcommittee on Human Rights in Brussels, a First Information Report (FIR) was filed by the police under Section 505 of the Ranbir Penal Code.[106] The FIR (No. 54 of 2008), without a statute of limitation, charged Chatterji and Zahir-Ud-Din, who was then editor of *The Daily Etala'at*, with intent to cause "fear and alarm among a particular section of the public" to "induce them to commit an offense against the state." Chatterji and Zahir-Ud-Din were charged with failing to appear in court, while, in actuality, they had not been summoned. The FIR is reproduced in Appendix II.

IPTK is grateful for the solidarity and support it has received from civil liberties and democratic rights groups in India, and from human rights groups and institutions internationally.[107] The Human Rights Council of the United Nations sent a Letter of allegations on July 8, 2008, inquiring into the intimidation and harassment of Chatterji and

105 Resolution: "Allegation of mass graves in Indian-administrated Kashmir," P6_TA(2008)0366, resolution adopted by a show of hands. Angana Chatterji testified in-person at the parliament in Brussels. Parvez Imroz testified via weblink, as he has been denied a passport by the Government of India since 2005. Chatterji's movements in India have been surveilled, and she has been repeatedly stopped at national and international airports in India, and asked if she possesses dual (of India and the United States) citizenship, which she lawfully cannot and does not. Chatterji is a citizen of India and a permanent resident of the United States.
106 *The Daily Etala'at,* English edition of newspaper published from Srinagar, also see Chatterji (2008).
107 See http://www.kashmirprocess.org.

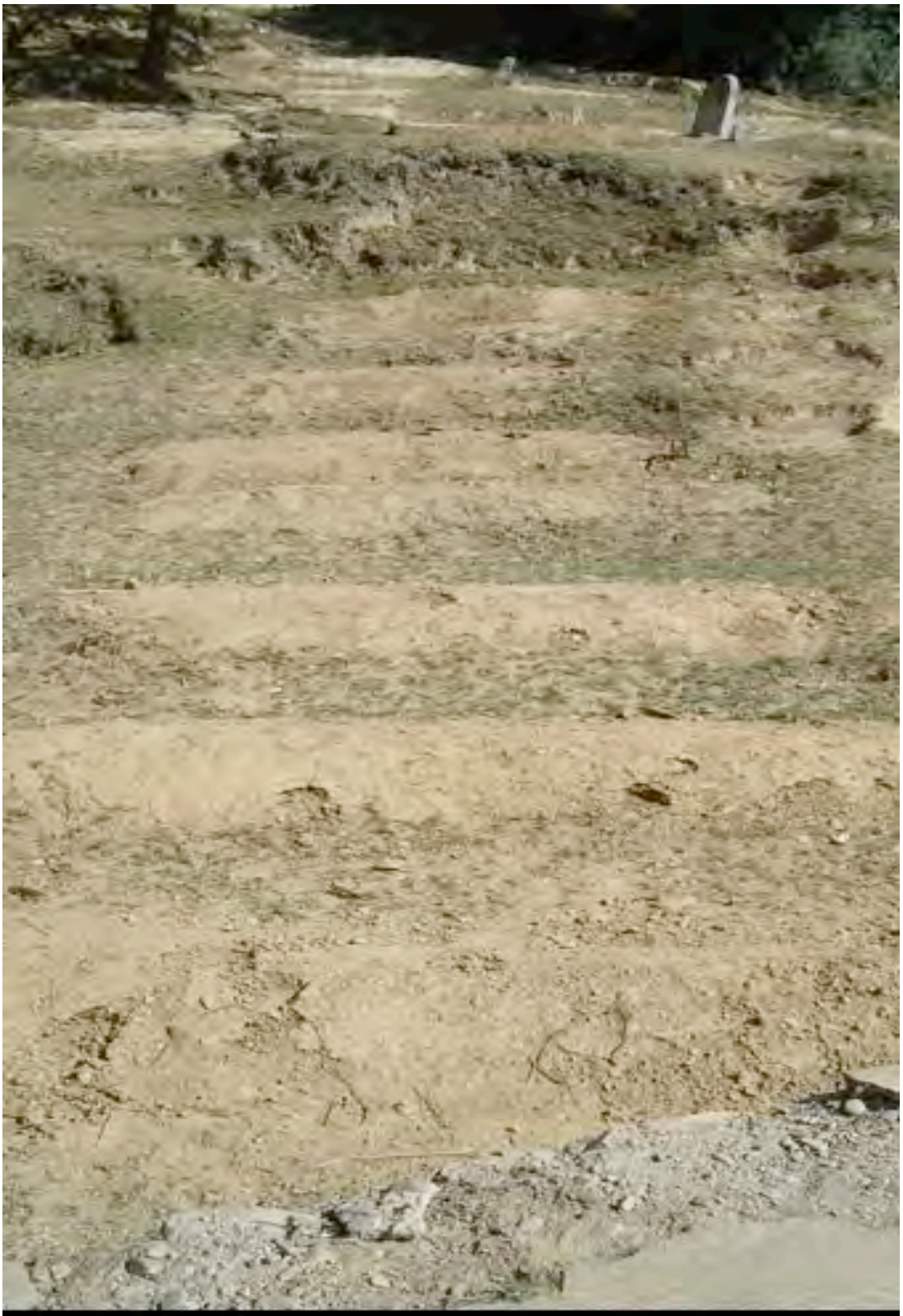
Imroz.[108] The Government of India responded on March 19, 2009, denying the allegations. For the Letter of allegations and the Government of India's response, see Appendix III.

108 The Human Rights Council is an inter-governmental body within the United Nations constituted by the General Assembly on March 15, 2006, presently made up of 47 states, and is "responsible for strengthening the promotion and protection of human rights around the globe," with the stated objective of "addressing situations of human rights violations and mak[ing] recommendations on them."

Regipora Village, Kupwara District

Mayan, Muqampeera, Baramulla District

Marsari, Tee Pee Road, Chowkibal, Kupwara District



Kharbagh, Kupwara District

IV. "Exhumed Truths": Kupwara District

The road to Kupwara district from Srinagar city is often lined with army convoys and military camps, with security personnel stationed every few metres along the road. Approximately 1,524 metres above sea level, Kupwara borders the Line of Control to the north and west. Located between the Shamsbari and Pirpanchal mountain ranges, Kupwara is one of the most heavily militarized zones in Kashmir, about 95 kilometres from Srinagar. In Handwara town, a watchtower surveils and regulates movement.[109] Six army camps and seven interrogation centres have been operational in the surrounding area, with police stations functioning as additional interrogation cells. In Kupwara district, only 209 instances of disappearances have been confirmed between 1989 and 2009.

IPTK documented the following:

Kupwara District	Graves documented by IPTK	Unnamed graves [110] (of those documented)	Graves with two bodies	Graves with more than two bodies
14 villages investigated	1453 w. 1487 bodies	1278 87.9 percent	8	4 [Total 30 bodies]

The details above are compiled from the following figures derived through IPTK's investigations:

Names of 14 villages investigated in Kupwara District	No. of graves	Unnamed graves[111]	Graves with two bodies	Graves with more than two bodies No. of bodies in each of these graves
1. Trehgam	100	82		
2. Regipora	260	258		
3. Sedarpora Kandi	15	10		
4. Kralpora	285	205		
5. Sogam Lolab	100	71	4	
6. Chandigam Lolab	40	36		
7. Wilgam Martyr Graveyard	350	345		1 [w. 5 skulls]
8. Tumina Chak Chowkibal	34	34		
9. Marsari Chowkibal	8	8		

109 Handwara is an area of political and military significance in Kupwara district.
110 Unnamed at/during the time of our investigations.
111 Unnamed at/during the time of our investigations.

10. Kalarus Main (Martyrs) Graveyard	80	60	3	2 [w. 5 bodies in 1 grave + 3 bodies in 1 grave = 8]
11. Kanenar Kalarus Graveyard	1	1		1 [w. 17 bodies]
12. Lada Kalarus	5	5	1	
13. Kharbagh	135	123		
14. Bigulsar Lolab	40	40		
Villages = 14	1453	1278	8	4 graves [Total 30 bodies]

Prevalently, the burials were undertaken by local residents on community land, while professional gravediggers undertook the task of burial in a couple of villages. Here we cite a few examples that evidence some of the extraordinary events and circumstances within these graveyards.[112]

In Regipora, on the mountainside, adjacent to the premises of the Government Middle School is a graveyard holding 260 graves of which two have been identified. In Tumina Chak, Chowkibal, the graveyard holds 34 nameless graves buried by locals since its establishment in 2004. In its vicinity is a cantonment of Rashtriya Rifles (military unit) and the 33 Battalion Camp of the Border Security Force.

The Kalarus Main (Martyrs) graveyard was constructed on land belonging to the local mosque in June 1993, for the burial of a local woman, identified as Guljan, who was killed by security forces during a firing incident. A resident testified: "Since then, other bodies have been buried here. The army used to tie those killed to their vehicles and drag them down from the hilly areas. The dragging mutilated the bodies. Whenever we asked about the identity of the slain brought to our village, the police often answered that the bodies were of unidentified foreign militants who got killed during different encounters with army and other security agencies in the frontier areas of Kupwara."

Trehgam

Trehgam village in Kupwara district is located approximately 105 kilometres from Srinagar. It is home to Mohammad Maqbool Bhat, celebrated by Kashmiris as a freedom fighter for independence. Bhat was a principal organizer-activist of the Jammu Kashmir National Liberation Front (JKNLF). He was sentenced to death by the Supreme Court of India and received the death penalty by hanging on February 11, 1984, in Delhi.[113]

A "martyrs" graveyard, as it is named by residents in Trehgam, holds an empty grave with a gravestone, marking the continued demand for the return of Bhat's body. The graveyard also holds 100 graves, of which 82 are unidentified. The burials took place between 1990-2005.

112 This is not exhaustive and does not include various details noted elsewhere in this report.

113 India, as the United States, continues to exercise the death penalty, disregarding local and international movements for the abolition of capital punishment and the United Nations Commission on Human Rights resolutions calling on countries using the death penalty to freeze executions, see E/CN.4/RES/1997/12 and E/CN.4/RES/2004/67.

Parvaiz Ahmad Bhat, scholar and nephew of Maqbool Bhat, stated that: "The graveyard was established in the year 1990 with the burial of Mohammad Akbar Zargar of Trehgam. Akbar was a retired army official and had joined the armed struggle in 1989. He was martyred in 1990 and was buried in this graveyard. The land of the graveyard belonged to the Trehgam Auqaf Committee and the Auqaf executives decided that all martyrs would be buried here.[114] The dead bodies have been brought by the police and entrusted to us for burial."[115]

The 82 unidentified bodies in Trehgam are mostly recorded as "foreign militants" by the police and armed forces. A local community member stated that: "When police brought the dead bodies they often claimed that the bodies were of unidentified foreign militants who, according to them, were killed in different counter-insurgency operations between army and other paramilitary forces. Generally there are no name plaques or epitaphs on the graves of unidentified persons, but we keep the soil heaped on them to keep them marked.[116] A few such heaps had been flattened over time and we once wanted to reconstruct them but we were not allowed to do so by security forces."[117]

Another resident testified that: "Whosoever was killed in our area was being brought to our village for burial. We do not know whether the dead were locals or foreigners, militants or civilians but, as per their appearance, they seemed to be local Kashmiris. Most of the dead bodies brought here were mutilated and disfigured. Mostly, the dead were undressed, their hands were tied with rope, their throats had been slit, and they had amputated legs or arms and mutilated faces, probably for concealing their identity."[118]

Family members have erected gravestones on some of the identified graves to commemorate the dead. IPTK noted that a number of these stones were broken. Local community members clarified that armed forces officers had sent security personnel to deface and destroy the gravestones.

A community member stated: "Once a completely scorched dead body was brought from Gagnoosa village and was handed over to us. The deceased had been scorched by army troops in the grass in Gagnoosa and then we buried that charred body here. To avoid the flattening of graves, at times we placed stones on a few graves. The army officer, Major Arora, smashed those stones and said that these are the graves of terrorists and they do not deserve sanctity. The dead bodies had been buried from 1990 to 2005. The Auqaf committee arranges the shroud, wood, and other materials for performing the last rites of the dead bodies and our village performs this deed on humane grounds. In 2003, three dead bodies were brought from Batmarg. On another occasion when some dead bodies were brought here and buried, one of

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114 Waqf, plural Auqaf: Permanent dedication of movable or immovable properties for religious, pious, or charitable purposes as recognized by Muslim Law. Wakf Institutions deal with the religious, social, and economic life of Muslims.

115 Personal communication, IPTK (2008-2009).

116 So that the mounds may remain raised and discernable as the grass grows over the graves through time.

117 Personal communication, IPTK (2008-2009).

118 Personal communication, IPTK (2008-2009).

them was identified to belong to the Sumbal area. Then the family came here and took the body to their native place." [119]

Sedarpora

On April 29, 2007, armed forces claimed the killing of four militants of the Lashkar-e-Toiba. The First Information Report [No. 101/07, dated April 29, 2007] filed by the police stated that the deceased were "four Pakistani terrorists identified as 1. Abu-Safayan, 2. Abu-Hafiz, 3. Abu-Sadiq, 4. Abu-Ashraf..."

Three of the four male bodies were buried in Sedarpora village in the Kandi area, Kupwara district. The three bodies were later identified to be residents of Kashmir, killed in fake encounters. The names of the deceased were Reyaz Ahmad Bhat, resident of Kalashpora, Srinagar district; Manzoor Ahmad Wagay, resident of Letar, Pulwama district; and Sartaj Ahmad Ganai, resident of Tikipora, Shopian district. The identity of the fourth body has not been ascertained.

The bodies of Manzoor Ahmad Wagay, 18 years of age, and Sartaj Ahmad Ganai, 17 years of age were exhumed and identified. Reyaz Bhat was identified through a complex process. Reyaz Ahmad Bhat and Manzoor Ahmad Wagay were identified as ordinary civilians. Sartaj Ahmad Ganai was identified as a local militant.

Sartaj Ahmad Ganai's family stated that he had been a carpenter and a farmer. Ganai had informed his family that he had joined the militancy on April 1, 2007.

The Bhat family stated on record that Reyaz Ahmad Bhat, 19 years of age, had been missing since April 25, 2007. Informal lines of communication are circulated across Kashmir to assist families with possible identification of their dead. Through such networks, Bhat's family learned about the four bodies that were buried at Sedarpora. It took them approximately four months to gain access to the photographs on file with the police station.

Reyaz Ahmad Bhat was identified by Javeed Ahmed Bhat, his brother, as a resident of Kalashpora, Srinagar, based on police photographs taken by the police following his death. The caretaker of the graveyard at Sedarpora village then confirmed the particular grave where the individual named Reyaz Ahmad Bhat had been buried. Javeed Ahmed Bhat spoke of grieving, of his imprisonment and beatings at the police station as he attempted to locate his brother. Bhat's family stated that Reyaz Ahmad Bhat had never been involved in militancy.

Mohammad Ismail Bhat, an elderly and ailing person, the father of Reyaz Ahmad Bhat, reiterated his demands for an investigation into the events and circumstances of his son's death. He stated that the petition filed by Reyaz Ahmad Bhat's mother is pending in the Jammu and Kashmir High Court.

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119 Personal communication, IPTK (2008-2009).

The Sedarpora graveyard was established in 2000 on land belonging to the Eidgah Committee.[120] A resident of Sedarpora stated: "The first burial in this graveyard was of a local militant, Abdul Majeed, killed in the village during an encounter with the troops. There are 15 graves in this graveyard mostly of unidentified persons, who at different times were handed over to us by the police for burial. We have also buried few dead bodies, which, according to the police, were of Pakistani militants. We raised epitaphs over those graves as per the credentials given by the police. So far a few dead bodies have been exhumed from here. The dead belonged to Kashmir, from Shopian, Pulwama, Srinagar, and other places. The families of the dead identified the bodies after exhumation. The last burial was in November 2007, and the deceased, according to the police, was an unidentified foreign militant killed in an encounter."[121]

Kralpora

Kralpora is 108 kilometres from Srinagar. It is the residence of the late Abdul Gani Lone, leader of the People's Conference.[122] A graveyard was established in Kralpora in 1990 where 285 persons have been buried, brought to local residents by armed forces personnel in the area. Here 80 bodies have been identified. The land on which the graveyard is situated was used to graze livestock for the area, and a section of it is owned by the government.

A resident of the area stated: "We established this graveyard in 1990 when six mutilated bodies were brought here for burial. The army with the help of coolies [porters] fetched these bodies here and handed them over to us for burial. These bodies were chained at the ankles and wrists and they had injuries all over them. It seemed as if they had been dragged down from the jungles. The security agencies then informed us that the dead got killed during an encounter with them in the Rangwar area. It was also told that all the six deceased belonged to the South Kashmir's district Anantnag."[123]

Another resident added: "Since the establishment of this graveyard we have buried about 285 dead bodies here."[124] No exhumations have been conducted, even as many of the bodies in the graves have been identified through other means. The resident added: "Among them, 80 were of persons whose identities were ascertained. These dead bodies were usually brought to the hospital by the army along with the police for some examination and photography. From the hospital, the bodies were being handed over to us for burial. Generally the police said that the dead were unidentified foreign militants, killed by the army during encounters at various places in the forests and other areas. The dead bodies were being handed over to us along with clothes, and in every case we noticed that everything from the pockets of the dead was confiscated. Probably to not keep any evidence of their identity. Whenever we were given

120 Eidgah, also Idgah, Urdu: An outside arena or mosque for worship and prayer for Eid (also Id) prayers. Eid [Eid-ul-Zuha and Eid-ul-Fitr] celebrations break the fast after Ramaḍān.
121 Personal communication, IPTK (2008-2009).
122 Political party of Jammu and Kashmir, founded in 1978.
123 Personal communication, IPTK (2008-2009).
124 Personal communication, IPTK (2008-2009).

any dead body, a written declaration of acknowledgement was taken from us by the police."[125]

Villagers stated that they collect donations among local residents for performing the last rites of the dead. Caretakers stated that they had erected name plaques on each identified grave. The plaques erected by them were dismantled by security personnel, and the persons who constructed them were harassed and intimidated.

Another resident added: "Out of the total 205 burials of unidentified bodies, about 15-20 bodies were mutilated or disfigured. In 2005, five mutilated dead bodies were handed to us. The bodies, according to the police, were of unidentified foreign militants fetched here from Dardpora area. According to the police, these people had been killed in a gun battle there. On another occasion, some flesh and body parts of a slain person were brought here in a sack for burial."[126]

A caretaker stated: "Initially I myself was taking photographs of the bodies with an intention to keep a record source for identification of the deceased. I had dozens of photos with me and a few times families from downtown Srinagar came here and identified the bodies of their slain from those photos. All those photos and other testimonials recovered from the dead were taken away by the army, police, and other [state] agencies during various raids at my house."[127]

The last burial was performed in April 2009. The dead body, according to local residents, was brought from Marsari or Rangwar area, and stated by security personnel to be that of a militant killed in an encounter. According to local residents, following the burial in 2009, three dead bodies were brought to this graveyard for burial, but the cadavers were shifted to another location by the police prior to the burial for undisclosed reasons.

125 Personal communication, IPTK (2008-2009).
126 Personal communication, IPTK (2008-2009).
127 Personal communication, IPTK (2008-2009).

Kalarus Area, Kupwara District

Tumina Village, Chowkibal Area, Kupwara District

Chehal Village, Uri Area, Baramulla District

IV. "Exhumed Truths": Baramulla District

Baramulla is the largest district in Kashmir with respect to population and area. A place with a heavy military presence, Baramulla district houses 29 camps of the Indian armed forces. Many of these camps contain interrogation centres. There are numerous allegations and reports of instances of perpetration of torture in these camps. In Baramulla district, only 245 instances of disappearances have been confirmed between 1989 and 2006.

IPTK documented the following:

Baramulla District	Graves documented by IPTK	Unnamed graves[128] (of those documented)	Graves with two bodies	Graves with more than two bodies
33 villages investigated	1122 w. 1321+ bodies	1013 90.3 percent	140	17 [Total 76+ bodies]

The details above are compiled from the following figures derived through IPTK's investigations:

Names of 33 villages investigated in Baramulla District	No. of graves	Unnamed graves[129]	Graves with two bodies	Graves with more than two bodies No. of bodies in each of these graves
1. Zandfaran, Budmulla & Fatehgarh	14	14		
2. Kichama Sheeri A	105	105		1 [w. 3 bodies] 1 [w. 4 bodies]
2.a. Kichama Sheeri B	60	60	60	
3. Peerniyan Gondabal	1	1		
4. Chehal Bimyar	132	126	63	5 [w. 5x3 = 15 bodies]
5. NHPC Road [National Hydroelectric Power Corporation]	11	11		
6. Boniyar Near Police Station	3	3	1	2 [w. 2x3 = 6 bodies]
7. Trikanjan	11	11	3	
8. Banali	4	4		
9. Parro Gagar Hill	52	52		
10. Chottali	10	10		
11. Army Brigade Headquarters Rampur, Uri	15	15		1 [w. numerous bodies, see section entitled "Graves"]
12. Gingal	8	8		
13. Bijhama	201	200	1	
14. Lachipora A (3 graveyards) + Lachipora B (4 graveyards)	226	173		

128 Unnamed at/during the time of our investigations.
129 Unnamed at/during the time of our investigations.

15. Dashewara	40	35		
16. Mayan (2 graveyards)	40	22		
17. Gharkote	1	1		1 [w. 16 bodies]
18. Hathlonga	21	21		1 [w. 8 bodies]
19. Ahteshampora	2	2		
20. Dangiwacha Rafiabad	60	56		
21. Bahrampore	30	8		
22. Zethan Rafiabad	1	1		
23. Mondej Rafiabad	5	5		
24. Hamam Markote	16	16	6	4 [w. 4x3 = 12 bodies]
25. Pringal Nowgam and Azadpora	3	3		
26. Zamboor Payeen	4	4		
27. Gantamulla Payeen	4	4		
28. Khadenyar	1	1		
29. Ziyarat Ameer Sahib, Sheeri	3	3		
30. Raja Mohalla, Main Uri	22	22		
31. Quazipora (Patti-1), Bijhama	7	7	6	
32. Mir Mohalla, Kichama	8	8		
33. Nullah Nigley, Leyan Marg Gulmarg	1	1		1 [w. 12 bodies]
Villages = 33	1122	1013	140	17 graves [Total 76+ bodies]

Prevalently, the burials were undertaken by local residents on community land, while professional gravediggers undertook the task of burial in a few villages. The circumstances and events connected to each grave and graveyard bear complex relations to violence. Here we cite a few examples.[130]

In Ahteshampora, there are two nameless graves of persons whose bodies had been recovered from the Jhelum river in 1993. In Hamam, Markote, near the premises of the Government Primary School, there are 16 nameless graves.

In Boniyar, residents stated that: "In this village eight dead bodies had been buried in three graves near the Boniyar Police Station. The police with the help of local people buried these bodies in the year 2001. All the eight dead bodies were claimed to be the bodies of unidentified militants killed in an encounter in the jungle area. In the same village there are three more graves situated on the main road. Six dead bodies are buried in these three graves."

Ziyarat Ameer Sahib at Sheeri holds three graves. A local resident stated: "On November 9, 1991, police brought four unidentified dead bodies to our village. The dead, according to police, were militants, killed in an encounter on the Line of Control. The bodies were disfigured. One of the dead bodies was identified as that of Mazoor Ahmad. Mazoor Ahmad had left the house a few days ago and we were searching him continuously but found nothing and could not locate him. The police had kept him in their custody for two days before the killing."[131] [Note: Mazoor Ahmad's grave is not a part of IPTK's count.]

130 This is not exhaustive and does not include various details noted elsewhere in this report.
131 Personal communication, IPTK (2006-2009).

In Raja Mohalla, located in the Uri area in Baramulla district, a graveyard was established in the early 1990s. A portion of it has been used to bury unidentified persons while the other side is used for regular village burials. A community member stated: "In the graveyard there are 22 graves of unidentified persons. These dead bodies were brought to the village in the year 1996 and 1997 by the police and were handed over to us for burial. Whenever the dead bodies were brought to our village, local inhabitants came out of their homes and performed the last rites. Police usually claimed that these dead bodies were of unidentified foreign militants killed in different encounters." [132]

Quazipora village is on a hillside. There, a graveyard holds dead bodies of 13 unidentified persons. A resident of Quazipora stated: "In 1991, there was an encounter in the Sarya area. The army cordoned off whole of our area and nobody was allowed to move out of the house. After the daylong firing the army brought 13 dead bodies and handed over them to us. The army ordered 5-6 persons from the village to bury the dead. We were not allowed to perform their funeral prayers. The army told us to just dig out the land and put the bodies there. We buried the bodies on village land on the roadside. One family from Khawajabagh in Baramulla came to identify one of the bodies. The body was exhumed but the body was so mutilated that it could not be identified." [133]

Kichama, Sheeri

In Kichama, Sheeri, the main graveyard (A) contains 105 graves. Adjacent to this are 60 graves (B). Together (A) and (B) hold 230 bodies buried between 1994-2003. Graveyard caretakers stated that 60 graves (B), each holding 2 bodies, are less distinguishable and flattened. A local community member in Kichama, Sheeri, stated: "Keeping them flattened was helpful in preventing their destruction by the security forces who were not able to spot the graves of newly buried unnamed bodies. Not only this, but animals were damaging some graves here that were appearing in the form of heaps or marked with stones."

A local community member in Kichama, Sheeri, stated: "We have buried 230 dead bodies here. Police and army have been claiming that the dead bodies we buried in this graveyard were all unidentified foreign militants. These persons were claimed to be killed in the border areas of Uri while crossing the Line of Control. We performed the last rituals and buried them in the land situated on the fringe of the hill near our village."[134]

According to local residents, a disproportionate number of bodies were damaged and faces were mutilated. A village resident stated: "Once the bones of three persons were brought to the village. These persons claimed as militants were burnt to death and bodies charred in a house during an encounter with the troops at Baramulla. We put those bones in a single grave. The clothes worn on all the dead bodies were torn and the labels on them had been removed. We tied these clothes around tree trunks and on the nearby fence poles of the

132 Personal communication, IPTK (2006-2009).
133 Personal communication, IPTK (2006-2009).
134 Personal communication, IPTK (2006-2009).

graveyard. Some amulets were also recovered from these dead bodies. We also tied these amulets with the trees." [135]

A resident stated: "We began to bury these dead bodies at a time when five militants were killed in Tangmarg on May 4, 1994. The dead bodies of these militants were brought to Baramulla by the army. The army then took these bodies to the jungle and they were about to cremate them. I received information regarding the dead bodies from one of my friends, who is a police official. I called the Superintendent of Police of Baramulla on the phone and requested him to bring the dead bodies to our village for burial, as otherwise the army would cremate them. The Superintendent got the dead bodies from the possession of the army and sent them to our village and we buried them in our village."[136]

The resident added, "Many a times I have been arrested and tortured by the army. Army soldiers frequently harassed me as they were accusing me for having affiliation with the militancy and for receiving Rupees 35,000 from Pakistan for every burial. Finally when too many in the village were persecuted and harassed by the army, the villagers decided not to bury these unidentified dead bodies. By year 2002 local people stopped burying even their dead here because the graveyard was completely filled with dead bodies. Since then the dead bodies are buried in Chehal village."[137]

Another resident added: "There are many other cemeteries in the jungle areas of Baramulla and Kupwara districts. At some places in the border areas, there are big ditches, where the dead bodies of alleged unidentified foreign militants are thrown." [138]

Two dead bodies that were part of a triple murder case were buried in Kichama, Sheeri (A) in 1999. These two bodies were exhumed later. Following the exhumation, these graves were filled with two other bodies. [Note: The two bodies that were part of the triple murder case have not been included in IPTK's count of the 105 graves in Kichama, Sheeri (A).] According to family members: "On June 23, 1999, at about 7:45 p.m., Special Task Force personnel apprehended three young men riding on a scooter. The three were from Srinagar, Ghulam Rasool Matoo, a resident of Nawa Kadal area, Javaid Ahmad Shah of Lal Bazar, and Nazir Ahmad Gilkar from Nowhatta. They were returning from a marriage celebration. The trio was dragged to the police station in Soura and detained. Inside the police station, it is alleged that the Station House Officer, along with his six accomplices, tortured them and later killed them."[139]

Further, family members stated: "The bodies of Ghulam Rasool Matoo and Javaid Ahmad Shah were exhumed from Kichama, Baramulla, after eight days of their burial. The families were able to exhume the two bodies and bury them in their ancestral graveyards. Nazir

135 Personal communication, IPTK (2006-2009).
136 Personal communication, IPTK (2006-2009).
137 Personal communication, IPTK (2006-2009).
138 Personal communication, IPTK (2006-2009).
139 Personal communication, IPTK (2006-2009).

Ahmad Gilkar's body was found from the Dal Lake in Srinagar. The case was widely reported in the media creating pressure on the government to order an inquiry. The accused were identified and the case went to the court of law. The case continues, it has been eight years. Three people were murdered. Eight years later, the case continues from one hearing to another, bringing no relief to the memory of the deceased." [140]

Mir Mohalla, Kichama

A smaller graveyard, Mir Mohalla, Kichama, with eight graves, is nearby to Kichama, Sheeri, proximate to the Shrine of Syed Jalal-u-din Jahan Gasht Bukhari. The graveyard is adjacent to a sign put up by a government development agency, proclaiming it a "Model Village."

140 Personal communication, IPTK (2006-2009).

Kichama Village, Sheeri Area, Baramulla District

Kichama Village, Sheeri Area, Baramulla District

Mir Mohalla, Kichama, Baramulla District

Lachipora A, Rawathpora, Baramulla District

Waripora Graveyard, Pahlipora, Bandipora District

IV. "Exhumed Truths": Bandipora District

In Manasbal, in Bandipora district, army bunkers, barracks, barbed wire fences, and a checkpoint built on 3,000 kanals of land forcibly "coexist" with laboratories, sheds, and other buildings of the Cattle Research Station overlooking Manasbal lake. Also in Manasbal, 2,500 kanals of land, mostly belonging to the Sher-e-Kashmir University of Agricultural Sciences and Technology, were taken over by the army for constructing an airport.

In Kaloosa, in Bandipora district, the home of a Kashmiri Pandit, reportedly named Pandit Somnath, was taken over by the Central Reserve Police Force and the Special Operations Group. Pandit Somnath migrated to Jammu in 1990.

Local communities state that Bandipora district has housed both militants and state sponsored gunmen/militias. Among those that participated in the armed militancy, a certain number had also perpetrated violences within their communities. Today, local communities state, only a few armed militants remain active within the district.

In Bandipora district, 95 instances of disappearances have been confirmed between 1989 and 2006. IPTK documented the following:

Bandipora District	Graves documented by IPTK	Unnamed graves [141] (of those documented)	Graves with two bodies	Graves with more than two bodies
8 villages investigated	125 w. 135 bodies	82 65.6 percent	6	2 [Total 6 bodies]

The details above are compiled from the following figures derived through IPTK's investigations:

Names of 8 villages investigated in Bandipora District	No. of graves	Unnamed graves[142]	Graves with two bodies	Graves with more than two bodies No. of bodies in each of these graves
1. Batmohalla Sumbal	30	19	6	2 [w. 3 bodies in each grave = 6]
2. Waripora Pahlipora	26	16		
3. Hajam Mohalla Safapora	23	16		
4. Koalpora Manasbal	7	7		

141 Unnamed at/during the time of our investigations.
142 Unnamed at/during the time of our investigations.

5. Chewah, Safapora	9	7		
6. Bazipora, Ajas	5	4		
7. Ajas Main	20	8		
8. Chrewan Gujjar Patti Ajas	5	5		
Villages: 8	125	82	6	2 graves [Total 6 bodies]

The burials were undertaken by local residents primarily on community land. Here we elaborate on some events and incidents pertaining to the graves.[143]

Bazipora, Ajas

In Bazipora, Ajas, a local graveyard is situated on the right side of the Srinagar-Bandipora road, approximately 45 kilometres from Srinagar. In one instance, residents stated that officers of the Special Operations Group at Ganderbal and 13th Battalion of the Rashtriya Rifles had reportedly handed them a bullet-riddled dead body, claiming it to be that of a foreign militant killed in an encounter on the outskirts of Bazipora. On February 3, 2007, body was exhumed and identified to be that of Showkat Ahmad Kataria.

Showkat Ahmad Kataria was disappeared on the evening of October 4, 2006, from Alamgari Bazar in Srinagar, while performing the tasks of an Imam (priest) at a local mosque, Masjid Aalamgari Bazar. He was killed in a fake encounter on October 5, 2006.

Ajas Main

At Ajas Main in Bandipora, the body of a disappeared person, Ghulam Nabi Wani, was exhumed from the graveyard. Wani was picked up on March 2, 2006, from Lal Chowk, near Tyndale Biscoe School, in Srinagar, where he was selling goods on the footpath, and killed in a fake encounter. Local residents stated that: "When police handed over Wani's dead body to us, they told us that this was the body of a foreign militant who got killed during an encounter with the security forces." [144]

Waripora, Pahlipora

In Waripora, Pahlipora, local residents stated: "It was the first time in mid 1990s that we buried four dead bodies claimed to be of unidentified foreign militants in this graveyard. These bodies were first thrown into a ditch in the main Safapora area by the army, which was filled in with soil and dry tree branches. When people of Safapora area came to know about these bodies they held a protest demonstration and retrieved the dead bodies. All the bodies were brought here in the form of procession and our village elders decided to bury them in this graveyard. The faces of all the four dead were mutilated and the bodies were damaged all over. According to the police the dead were killed somewhere in Khahyar area of Bandipora by army troopers." [145]

143 This is not exhaustive and does not include various details noted elsewhere in this report.
144 Personal communication, IPTK (2008-2009).
145 Personal communication, IPTK (2008-2009).

Hajam Mohalla, Safapora

In Hajam Mohalla, Safapora, in Bandipora district, the graveyard was established in 1993 with the burial of a local resident, Farooq Hajam. Of the 23 graves here, seven belong to identified local Kashmiris who were either local militants or civilians killed in different violent incidents in the Safapora area. The graveyard holds the bodies of 16 unidentified persons, their graves distinguishable mounds of soil and grass. The police, local residents stated, regularly reported the identity of these dead as foreign militants who had been killed in different encounters. Local residents stated that they collected donations from village members to perform the last rites of the dead.

A resident stated: "Once six dead bodies together were handed over to us for burial. The dead, according to the police, had been killed at Guh-Gaj in the jungle area. It was claimed by the police that the slain were unidentified foreign militants, involved in the killing of Pandits in Ganderbal area." [146]

Koalpora, Manasbal, Safapora

The Koalpora, Manasbal, Safapora area is en route to Manasbal Lake Park. Here, there is a graveyard, a heap of soil covered with barbed wire, where seven unidentified bodies have been buried between 2001 and 2002.

Local community members stated: "The time we buried these dead bodies here, there was an army camp and police post nearby, both of which were shifted later. First we buried three unidentified dead bodies at this place. The bodies were given to us about 8 p.m. by the police. The police said these were bodies of unidentified foreign militants, killed in an encounter at Gujjar Nar, Ajas."[147]

Local residents noted that often the dead were brought for burial during evening hours. Here, some of the required materials for burial were arranged by the then Division Officer of the Police Post at Koalpora. A local resident stated that: "I went out alone during the night and performed funeral prayers. Had anybody visited the place during the day, we were told that we would have to face dire consequences."[148]

Batmohalla Sumbal

In Batmohalla Sumbal, in Bandipora, behind the village mosque is a local graveyard. While the graves with name plaques are visible, the graves in the form of grassy mounds are locatable only with the assistance of local community members.

According to local community members the graveyard was set up in 1995 after five dead bodies were brought by the police and handed to local residents for burial. One of the graves holds the body of Abdur Rehman Padder. Abdur Rehman Padder, a carpenter, age 35, was a

146 Personal communication, IPTK (2008-2009).
147 Personal communication, IPTK (2008-2009).
148 Personal communication, IPTK (2008-2009).

resident of Anantnag district. He was reported missing from Batamaloo bus stand in Srinagar, where he was arrested on December 8, 2006. On January 28, 2007, police stated that Padder had been killed in a fake encounter in Waskura, Ganderbal district. Special Operations Group officials had identified and recorded him to be Abu Hafiz from Multan, Pakistan, a militant with Lashkar-e-Toiba. Padder's mutilated body was brought to Batmohalla Sumbal from the hospital in Waskura and buried. Later, Padder's body was exhumed from this graveyard in Bandipora where he had been buried, and identified.[149]

Youth residents of Batmohalla Sumbal stated: "We were being harassed by the army for performing the funeral or last rites of these dead bodies. Even we thought many a time to take the pictures of dead before burying them but we were fearful to do so."[150]

149 Personal communication, IPTK (2008-2009).
150 Personal communication, IPTK (2008-2009).

Bazipora Graveyard, Bandipora District

Hajam Mohalla Graveyard, Bandipora District

Sumbal Graveyard, Batmohalla, Bandipora District

Koalpora Graveyard, Bandipora District

V. "Encounter"/Fake Encounter: An Index

The following briefs are highlighted from the cases we investigated. Most of those killed were labelled and registered as foreign militants by security agencies and their bodies were handed over to local residents for burial. In the interest of space, we have not reproduced the case histories here. Details and documentation on which we base the following are available with IPTK and IPTK associates.

No.	Name of Victim[151]	Index: Date of Death R: Residence D: Place of Death B: Place of Burial
1.	Abdul Hameed Badyari Male, Muslim Son of [S/o] Ali Mohammad Badyari Resident of [R/o] Boat colony Bemina, Srinagar district Arrested by security forces, subsequently killed at Waligham Kupwara Taharatpora. **Body identified and determined as local**. Petition in the Jammu and Kashmir High Court at Srinagar [henceforth, High Court] for exhumation.	January 21, 2000 R: Srinagar district D: Kupwara district B: Kupwara district
2.	Shabir Ahmad Ghasi Male, Muslim S/o Ghulam Nabi Ghasi R/o Boat Colony, Bemina, Srinagar district Arrested by the Special Task Force [STF] and later killed at Waligham Kupwara Taharatpora. **Body identified and determined as local.** Petition in the High Court for exhumation.	January 21, 2000 R: Srinagar district D: Kupwara district B: Kupwara district
3.	Aashiq Rasool Bhat Male, Muslim S/o Ghulam Rasool Bhat	March 13, 2000 R: Ganderbal district D: Ganderbal district

151 The list is not chronologically or alphabetically ordered but arranged according to the order followed in our investigations.

	R/o Ganderbal district The 19th Battalion Rashtriya Rifles [RR] claimed to have killed three foreign militants in an encounter. One of them was identified as Aashiq Rasool Bhat, a student. Case pending in High Court [FIR No. 63/2000] for directing police to complete investigation and prosecution. The High Court directed the Station House Officer [SHO] of Ganderbal to produce status report of the case. **Body exhumed, post-exhumation, identified, and determined as local.**	B: Ganderbal district
4.	Zahoor Ahmed Dalal Male, Muslim R/o Mominabad, Anantnag district	March 25, 2000 R: Anantnag district D: Anantnag district B: Anantnag district
5.	Mohammad Yousuf Malik Male, Muslim R/o Kokernag, Anantnag district	March 25, 2000 R: Anantnag district D: Anantnag district B: Anantnag district
6.	Bashir Ahmed Bhat Male, Muslim R/o Kapran Dooru, Anantnag district	March 25, 2000 R: Anantnag district D: Anantnag district B: Anantnag district
7.	Juma Khan Male, Muslim S/o Faqeer Khan, Anantnag district	March 25, 2000 R: Anantnag district D: Anantnag district B: Anantnag district
8.	Juma Khan Male, Muslim S/o Sher Ali Khan R/o Brari Angan, Anantnag district Army officials attached with 7 Rashtriya Rifles allegedly disappeared and killed the above five civilians in a fake encounter in Panchaltan. These five were recorded as foreign militants alleged to be Lashkar-e-Toiba [LeT] functionaries responsible for killing 35 Sikhs at Chattisinghpora village in Anantnag district. The families of the five dead alleged that those killed by the security forces were actually missing villagers and Kashmiris. Deoxyribonucleic acid (DNA) evidence sent to Calcutta/Kolkata and Hyderabad were contaminated. The findings of the Justice Kuchay Commission, convened to look into the matter, were not made public. A murder case was filed before the Chief Judicial Magistrate (CJM) against the five army officials. Accused have not been arrested, but they have contested the prosecution. No sanction has been observed under the Armed Forces Special Powers Act. The Supreme court of India has stayed the Kashmiri High Court order.	March 25, 2000 R: Anantnag district D: Anantnag district B: Anantnag district

	All five bodies were exhumed and identified, and determined as locals.	
9.	Latief Ahmad Ganai Male, Muslim S/o Ghulam Mohammad Ganai S/o Machama, Bererwah, Budgam district Officers of the 33 Rashtriya Rifles clamed to have eliminated two foreign militants in an encounter at village Hari Ganoon. FIR No. 103/ 2001 Police Station [PS] Kangan. High Court directed police conduct an investigation. No investigation has been initiated. **Body exhumed and identified, and determined as local.**	September 24, 2001 R: Budgam district D: Ganderbal district B: Ganderbal district
10.	Bashir Ahmad Khan Male, Muslim S/o Mumta Khan R/o Chaunti Mohallah, Bandipora district Officers of the 33 Rashtriya Rifles claimed to have eliminated two foreign militants in an encounter at village Hari Ganoon. FIR No. 103/ 2001 PS Kangan. No case was filed by the family of victim. **Body exhumed and identified, and determined as local.**	September 24, 2001 R: Bandipora district D: Ganderbal district B: Ganderbal district
11.	Farooq Ahmad Khan Male, Muslim S/o Wali Mohammad Khan R/o Kupwara district Officers of the 18 Rashtriya Rifles claimed to have killed a foreign militant. **Body exhumed and identified, and determined as local.** DNA analysis was conducted but the copy is yet to be given to the family. Police has closed the case without the orders of the magistrate. Under law, the magistrate authorizes when an investigation may be closed. The case is pending before the High Court.	August 24, 2003 R: Kupwara district D: Srinagar district B: Srinagar district
12.	Syed Yaseen Shah Male, Muslim Imam [priest] at Safa Kadal mosque Srinagar S/o Mohammad Ayub Shah R/o Kupwara district	April 20, 2004 R: Kupwara district D: Kupwara district B: Kupwara district

	Syed Yaseen Shah was picked up by Special Operations Group [SOG] personnel near Iqbal park in Srinagar on March 28, 2004. Later, officers of the 12 Rashtriya Rifles at Lolab claimed to have killed two foreign Pakistani militants named Abu Fazil and Jaffar Ali. **Body exhumed and identified, and determined as local.**	
13.	Syed Mohammad Anwar Male, Muslim R/o Kupwara district Syed Mohammad Anwar was picked up by SOG personnel near Iqbal park in Srinagar on March 28, 2004. Later, officers of the 12 Rashtriya Rifles at Lolab claimed to have killed two foreigners as Abu Fazil and Jaffar Ali. **Body exhumed and identified, and determined as local.**	April 20, 2004 R: Kupwara district D: Kupwara district B: Kupwara district
14.	Ghulam Mohammad Naik Male, Muslim S/o Habibullah Naik R/o Bahbi Jahlan, Noorabad, Quazigund, Anantnag district Officers of the 9 Rashtriya Rifles at Dhavneve Camp claimed that they had killed a foreign militant on July 23, 2004. **Body exhumed, identified, and determined as local.**	July 6, 2004 R: Anantnag district D: Anantnag district B: Anantnag district
15.	Abdul Rashid Kutay Male, Muslim R/o Bahbi Jahlan, Noorabad, Quazigund, Anantnag district Officers of the 9 Rashtriya Rifles at Dhavneve Camp claimed that they had killed a foreign militant on July 23, 2004. **Body exhumed, identified, and determined as local.**	July 6, 2004 R: Anantnag district D: Anantnag district B: Anantnag district

16.	Ghulam Mohd Chopan[152] Male, Muslim S/o Lassa Chopan R/o Badgam, Doligam, Banihal, Ramban district Officers of the 17 Rashtriya Rifles in their FIR claimed that they had killed a foreign militant of LeT on February 27, 2004. Case sub judice before the High Court. **On March 5, 2004, body exhumed on the order of District Magistrate, Doda, and identified, and determined as local.**	February 24, 2004 R: Ramban district D: Doda district (A part of Doda that has now been incorporated into Ramban district) B: Doda district (A part of Doda that has now been incorporated into Ramban district)
17.	Unidentified youth hailing from Rajouri district, Jammu Male, religion: not ascertained The youth was given the fictitious name of Ismail Bhai alias Babar, S/o Golla Seeq Bhai, and recorded as a resident of Pakistan, in Kodipak, district Lodurin-K K Khas, Chawalbir, Karachi. As per an allegation by Constable Subhash Rathore of 42 Battalion, headed by Commandant Narendra Singh, a Kashmiri youth had been gunned down by Commandant Singh on suspicion of being a militant. Constable Rathore alleged that Commandant Singh had himself participated in the killing, assisted by certain selected Border Security Force (BSF) personnel. The Director General of BSF ordered an inquiry against Commandant Narendra Singh. Following the allegation by Constable Rathore about the incident of September 7-8, 2003, the BSF establishment transferred Commandant Singh out of Jammu and Kashmir to Mizoram. Rathore stated that after the "fake encounter" Singh was recommended for the President's Gallantry Medal. Another allegation on a different matter was found pending against Commandant Singh. [NOTE: We have included these cases after careful review and deliberation, as it appears from available accounts that these bodies were of local residents, even as certain evidence is yet to emerge.]	Picked up on September 2, 2003 Killed on September 7-8, 2003 R: Jammu D: Budgam district B: Budgam district
18. 19.	Bhushan Kumar Male, Hindu R/o Jammu division Satpal of Chatha Male, Hindu R/o Jammu division	April 20, 2004 R: Jammu D: Kupwara district B: Not known

152 "Mohd": Noted here as spelled in public documents. Often used as shorthand for "Mohammad" or a variety of spellings for the same name.

20. 21.	Ram Lal Male, Hindu R/o Jammu division Ashok Kumar Male, Hindu R/o Jammu division The deceased were porters with the army. All the deceased were alleged to be foreign militants. This incident received media coverage on August 29, 2005. A soldier from the same unit disclosed in an anonymous letter written to the victim's parents that the deceased were killed by Rashtriya Rifles at Lolab to compete for gallantry awards. The army unit was alleged to have killed Major Kholi who had threatened to expose the issue. [NOTE: We have included these cases after careful review and deliberation, as it appears from available accounts that these bodies were of civilians, even as certain evidence is yet to emerge.]	
22.	Abdur Rehman Padder Male, Muslim S/o Ghulam Rasool Padder R/o Larnoo, Kokernag, Anantnag district Abdur Rehman Padder, a carpenter, age 35, was reported missing from Batamaloo bus stand in Srinagar, where he was arrested, on December 8, 2006. On January 28, 2007, police stated that Padder had been killed by SOG personnel in a fake encounter in Waskura, Ganderbal. SOG officials had recorded him as Abu Hafiz from Multan, Pakistan, a militant with LeT. **Body was exhumed from a graveyard at Bandipora from the premises of a police station where Abdur Rehman Padder had been buried, and identified, and determined as local.**	January 28, 2007 R: Anantnag district D: Ganderbal district B: Bandipora district
23.	Ghulam Nabi Wani Male, Muslim R/o Anantnag district Wani had been selling goods at Lal Chowk, Srinagar. A missing report was lodged in the Kothi Bagh Police Station. **Body exhumed, identified, and determined as local.**	March 2, 2006 R: Anantnag district D: Bandipora district B: Bandipora district

24.	Showkat Ahmad Kataria Male, Muslim S/o Noor Aalam R/o Nowkote Doligam Baihal, Ramban district **Body was exhumed on February 3, 2007, and identified, and determined as local.**	October 5, 2006 R: Ramban district D: Bandipora district B: Bandipora district
25.	Ali Mohammad Padder Male, Muslim S/o Ghulam Ahmad Padder R/o Matigawran, Kokernag, Anantnag district Padder was arrested on his way to Jammu and later killed in a fake encounter in Ganderbal by personnel of the SOG and 24 Rashtriya Rifles on the night of March 7-8, 2006. **Body exhumed on February 3, 2007, and identified, and determined as local.** A constable of the SOG reportedly accepted Rupees 50,000 from the family to locate Padder.[153] The Government of Jammu and Kashmir appointed special public prosecutors to pursue the case against accused police, CRPF, and army officials in the Ganderbal fake encounters. The officials stated to the court that an FIR lodged by an SOG and an army unit claimed that they had killed a foreign militant while investigations revealed otherwise. DNA samples of Padder were taken by a team of doctors from the Forensic Science Laboratory, Chandigarh, on February 1, 2007.	March 7, 2006 R: Anantnag district D: Ganderbal district B: Ganderbal district
26.	Nazir Ahmad Deka Male, Muslim S/o Abdul Rehman Deka R/o Daksum, Kokernag, Anantnag district Deka was arrested from Lal Chowk, Srinagar, where he was selling perfume as a street vendor. **Body exhumed, identified, and determined as local.**	February 16, 2006 R: Anantnag district D: Ganderbal district B: Ganderbal district
27.	Habibullah Naik Male, Muslim S/o Abdul Jabbar R/o Devar, Kupwara district	January 30, 2000 R: Kupwara district D: Kupwara district B: Kupwara district

153 Note: Since 2008, the exchange rate has fluctuated approximately between Indian Rupees 43-48 = 1 United States Dollar (US$).

	Naik (and Sams-Ud-Din War, see below) were arrested by security forces of 18 Rashtriya Rifles on December 17, 1999. Three days later, troops denied the arrest. Families stated that they met Naik and War in the army camp during their detention, and that: "They were not tortured when we met them two days after the arrest." Later, Naik was recorded as foreign militant and killed in an encounter.	
28.	Sams-Ud-Din War Male, Muslim S\o Haleem R\o Diver Lolab, Kupwara district Sams-Ud-Din War and (Habibullah Naik, see above) were arrested by security forces of 18 Rashtriya Rifles on December 17, 1999. Three days later, troops denied the arrest. Families stated that they met War and Naik in the army camp during their detention. Later, War was recorded as foreign militant and killed in an encounter.	January 30, 2000 R: Kupwara district D: Kupwara district B: Kupwara district
29.	Manzoor Ahmad Mir Male, Muslim S/o Ghulam Mohammad Mir R/o Delina, Baramulla district **Body exhumed from Delina (at the time of arrest there was an army camp at the place) on July 7, 2006, and identified as Manzoor Ahmad Mir.** The state has sent this case for sanction for prosecution to the Defence Ministry for prosecution of Major Atul Sharma in the matter.	September 2003 R: Baramulla district D: Baramulla district B: Baramulla district
30. 31.	Mohammad Ayoub Bhat Male, Muslim S/o Abdul Aziz Bhat R/o Lori, Imam Sahib, Shopian district Mudasir Ahmad Rather Male, Muslim S/o Ghulam Ahmad R/o Halowpora, Shopian district	March 17, 2006 R: Shopian district D: Gujarat state B: Gujarat state March 17, 2006 R: Shopian district

154 Between February 28 and March 2, 2002, approximately 2,000 people, mostly Muslims, were murdered in the state of Gujarat by militant Hindu nationalists, aided and abetted by the state. The National Human Rights Commission of India held that Narendra Modi, as the chief executive of the state of Gujarat at the time of the violence, was as such responsible for the role of the Government of Gujarat in the politically motivated and planned attacks on minorities there. Narendra Modi continued as Chief Minister of Gujarat, and won the assembly (state) elections of December 2002 and again in December 2007, see Chatterji (2009, 4).

	On March 17, 2006, Gujarat Police claimed that four militants from Pakistan had been killed in Vatva in Gujarat. Joint Commissioner of Police (Crime), P. P. Pande, stated to reporters that: "Prima facie it appears that the four terrorists gunned down in Vatva locality belong to Kashmir-based outfit Harkat-ul-Mujahideen." Pande stated that the four accused appeared to be establishing a terror network in Gujarat state in western India, to target "very important persons" and places of worship.[154] Two of the dead killed by security personnel in the state of Gujarat in what was established to be a fake encounter were Mohammad Ayoub Bhat, age 30, a fruit merchant, and Mudasir Ahmad Rather, age 18, a student of Islamic Studies in Gujarat. Bhat had travelled to Mumbai with a fruit truck on December 11, 2005. He had called and spoken with his family from Mumbai prior to returning to Kashmir en route through Gujarat. **The bodies of Mohammad Ayoub Bhat and Mudasir Ahmad Rather were exhumed and identified, and determined to be from Kashmir.**	D: Gujarat state B: Gujarat state
32.	Abdul Aziz Male, Muslim S/o Sher Mohd R/o Kot Dhara, Rajouri district	October 1997 R: Rajouri district D: Rajouri district B: Rajouri district
33.	Mohd Aziz Male, Muslim S/o Muhammad Hussain R/o Kot Dhara, Rajouri district	October 1997 R: Rajouri district D: Rajouri district B: Rajouri district
34.	Mohd Yusuf Male, Muslim S/o Raj Mohd R/o Kot Dhara, Rajouri district Three bodies were allegedly buried at the "no man's land" on the Line of Control at Peer Badesar.[155] All three buried were allegedly killed in fake encounters and recorded as foreign militants. The site was dug by the police in the presence of a Magistrate and Board of Doctors after receiving a written complaint from Mohd Farooq that his father had allegedly been killed and buried near the Line of Control at Peer Badesar in 1997. Mohd Yusuf's brother stated that all three killed were informers to the army and supplied narcotics to an army colonel. These narcotics were smuggled out by	October 1997 R: Rajouri district D: Rajouri district B: Rajouri district

155 Unoccupied and/or disputed land between countries.

	the army colonel to other states in India. **On March 15, 2008, the District Magistrate of Rajouri ordered that the bodies be exhumed. On June 19, 2007, the skeleton of one of the victims, Mohd Yusuf, was exhumed after excavation of the area where the three bodies had been buried.** Mohd Yusuf's skeleton was confirmed through a DNA test. On March 23, 2009, the state government paid compensation to the families of three persons allegedly killed in a fake encounter by the army in 1997. The compensation of Rupees 1,00,000 and the promise of employment were offered on the precondition that the families would not engage in further legal proceedings against the army.	
35.	Reyaz Ahmad Bhat Male, Muslim S/o Mohammad Ismail Bhat R/o Kalashpora, Srinagar district	April 29, 2007 R: Srinagar district D: Kupwara district B: Kupwara district
36.	Manzoor Ahmad Wagay Male, Muslim S/o Lassa Wagay R/o Letar, Pulwama district	April 29, 2007 R: Pulwama district D: Kupwara district B: Kupwara district
37.	Sartaj Ahmad Ganai Male, Muslim S/o Ghulam Qadir R/o Tikipora, Shopian district	April 29, 2007 R: Shopian district D: Kupwara district B: Kupwara district
38.	Identity not ascertained Security forces claimed to have killed four militants of the LeT on April 29, 2007. The family of Reyaz Ahmad Bhat was the first to contest this claim. They alleged that Bhat was missing since April 2, 2007. The family located his grave in Kandi, Kupwara, and identified him from photographs of the bodies available with the police. **The body of Manzoor Ahmad Wagay was exhumed and identified, and determined to be a local citizen.** **The body of Sartaj Ahmad Ganai was exhumed, and Ganai was identified as a local militant.**	April 29, 2007 R: Not known D: Kupwara district B: Kupwara district
39.	Javaid Ahmad Shah Male, Muslim R/o Lal Bazaar, Srinagar district	1999 R: Srinagar district D: Srinagar district B: Baramulla district
40.	Ghulam Rasool Matoo Male, Muslim R/o Nawa Kadal, Srinagar district	1999 R: Srinagar district D: Srinagar district

41.	Nazir Ahmad Gilkar Male, Muslim R/o Nowhatta, Srinagar district Javaid Ahmad Shah, Ghulam Rasool Matoo, and Nazir Ahmad Gilkar were killed in a fake encounter. The dead body of Nazir Ahmad Gilkar was deposited in the Dal Lake in Srinagar and the bodies of the other two were buried in Kichama in Baramulla district. They were labelled as foreign militants. **Nazir Ahmad Gilkar's body was recovered from the Dal Lake in Srinagar**. The photographs of the other two appeared in a local newspaper stating that two foreign militants had been killed. Their families asked that the bodies be exhumed. **The bodies of Javaid Ahmad Shah and Ghulam Rasool Matoo were exhumed, identified, and determined as locals**. Family members brought the bodies to Srinagar for burial. The Additional Sessions Judge acquitted the five personnel and the main accused, while Rashid Ahmad Khan, against whom proceedings under Section 512 of the Criminal Procedure Code have been initiated, is absconding.	B: Baramulla district 1999 R: Srinagar district D: Srinagar district Body deposited in Dal lake in Srinagar district
42. and 43.	Two persons, names not ascertained Both male, religion not ascertained R/o Residents of Kralpora, Kupwara district, as noted in photo identity cards. [NOTE: We have included these cases after careful review and deliberation, as it appears from available accounts that these bodies were of local residents, even as certain evidence is yet to emerge.] Residents of Phagsoo, Doda district, stated that they heard gunshots on the night of November 7, 2006. Next morning, a local community member who had travelled to a nearby canal to acquire water to irrigate his field, witnessed that STF personnel were present at the canal with two dead bodies. The STF stated to him that the bodies were of two foreign militants killed in an encounter during the night, and that the STF required the assistance of local residents to bury the bodies. Local residents protested against the STF, as the dead persons did not reportedly appear to them to be militants as marks of physical violence were apparent on their bodies and one of the dead was wearing slippers rather than shoes. Residents buried the bodies at	November 7, 2006 R: Kupwara district D: Doda district Body recovered near canal in Doda district November 7, 200 R: Kupwara district D: Doda district Body recovered near canal in Doda district

	the Phagsoo graveyard.	
44.

	[Identities given by armed forces personnel, from this: Male, Muslim] [NOTE: We have included these cases after careful review and deliberation, as it appears from available accounts that these bodies were of local residents, even as certain evidence is yet to emerge.] On September 23, 2008, police claimed to have killed two militants involved in the death of an army colonel and in triggering an IED blast in which 10 army troopers were killed at Narbal in July 2008. Police refuted the allegations of local communities that these were fake encounter killings and maintained that both the dead were from Pakistan. The Deputy Inspector General of police, of North Kashmir, Abdul Gani Mir, stated to the media that two LeT commanders who were Pakistani nationals were killed at Sumbal in Bandipora district. He identified the slain militants as Tahir Pathan alias Abu Tahir and Abdullah alias Abu Maaz. Local sources alleged that these were fake encounter deaths and that the police had arrested both these persons 18 days ago from the forests of Bandipora. An eyewitness to the encounter at Mohalla Ahmad Sahab Badshah Tengahara Sumbal stated that only one person was killed in a "mysterious gunfight" while another was brought dead to the place. Bloodstains were present surrounding one body only. The eyewitness stated that he heard the voice of a person who was screaming for help in Kashmiri. He stated that he witnessed about 20 persons and one person lying motionless on the ground. "A trooper shouted to his colleague that he might be alive and they pumped more bullets into his body," he stated. The eyewitness stated that later the troopers dragged the body to their vehicle and removed his phiran.[156] Stating that the whole area was awakened by the gunshots, the eyewitness said, "I was watching the whole episode and there was only one body." Another eyewitness asked: "How did they verify the credentials of the deceased in the middle of night?" The residents said that when they went to offer *Fajar* (pre-dawn) prayers, the troopers had lifted the body of the lone person. Another eyewitness, who saw the bodies, stated that one of them bore burn marks on his neck. Local residents refused to bury the bodies in the local graveyard because police failed to provide them credentials about the dead. Later, Sub-divisional Police Officer S. H. Singh stated to the media, "I have told what has happened. If people allege it was fake encounter, let it be so." Asked why people were not given the	D: Bandipora district B: Bandipora district

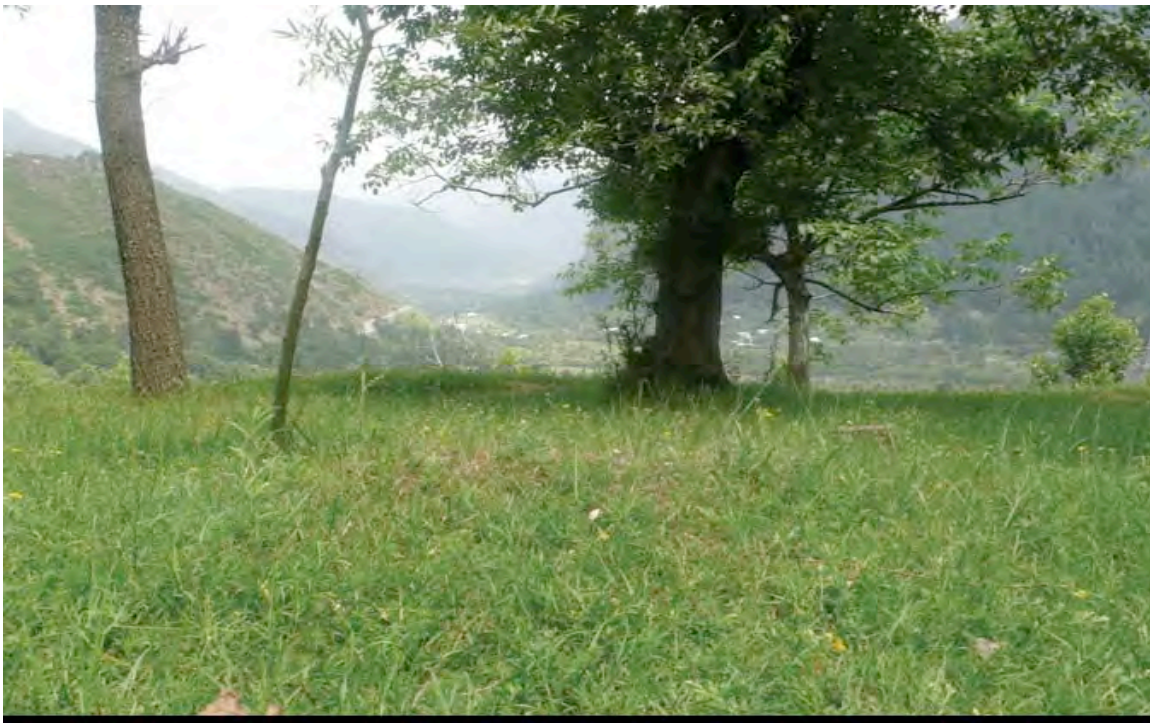
156 Phiran, also *phyaran*, long cloak or robe worn over trousers.

	credentials of the dead, Singh said, "We cannot identify them." "All information about them had come from the documents and identity cards recovered from their possession, which suggested they were Pakistanis. However, I cannot say with full proof they were Pakistanis or Kashmiris. They are still unidentified militants."	
48.	Mukhtar Ahmed Bhat Male, Muslim S/o Abdul Gani Bhat R/o Bandpow Zainapora, Shopian district	February 26, 2005 R: Shopian district D: Shopian district B: Shopian district
49.	Rafiq Ahmed Ganai Male, Muslim S/o Abdul Gani Ganai R/o Awagam, Kulgam district Troops of 17 Jammu Kashmir Light infantry [JAKLI] found two persons moving in suspicious circumstances in Saratpora village, near Shopian. The troops ordered them to halt. The two persons commenced firing on the troops, provoking retaliation. In the ensuing gun battle both persons were killed. Security forces identified both as "foreign mercenaries" and claimed to have recovered arms and ammunition. Residents of Bandpow Zaiapora (10 kilometres from Shopian) and Awagam Kulgam (30 kilometres from Shopian) stated that the two alleged "foreign mercenaries" had been killed in a fake encounter. Local community members stated that the two dead were Mukhtar Ahmed Bhat, 17 years, son of Abdul Gani Bhat of Bandpow Zainapora, and Rafiq Ahmed Ganai, 24 years, son of Abdul Gani Ganai of Awagam Kulgam. Bhat was a baker and Ganai was a carpenter. Residents of Bandpow Zaiapora and Awagam Kulgam joined public demonstrations on February 28, to protest the killings. On March 2, 2005, District Commissioner of Pulwama, Lateef-uz-Zaman Deva, ordered exhumation of the bodies and an inquiry into the killings [Order No. 1/ DMP/ 05/ dated February 2, 2005]. On March 2, both bodies were exhumed and DNA samples were collected, following which the bodies were buried by family members in their respective ancestral graveyards. **Both bodies exhumed were identified, and determined to**	February 26, 2005 R: Kulgam district D: Shopian district B: Shopian district

	be locals.	
50.	Afaq Ahmad Bhat Male, Muslim R/o Bomai, Sopore, Baramulla district On January 28, 2009, police and armed forces personnel alleged that they killed Shakeel Ganja and Abu Bakr, two militants of Jaish-e-Muhammad outfit in Bandipora. The dead were buried in a local graveyard. Local residents stated that, in fact, they had located the body of Afaq Ahmad Bhat under the debris of a house blasted with explosives by security forces during a "gunfight" in Ayatmulla village of Bandipora district on January 28. They found a diary and an identity card on the body of Afaq Ahmad Bhat and informed the police. Bhat's family stated that the police had called them and asked them to identify the body of the "slain militant." "We were called to Bandipora where we recognized the diary and his identity card," Bhat's family members stated. They stated that Bhat had disappeared in August 2008 during the Amarnath land agitation. They stated that: "Trouble for our son started after he participated in Eidgah march and his photograph was published in a newspaper. On seeing his photo, troopers arrested him and subjected him to torture. After his release he fled from the village to save himself." **On January 31, 2009 Afaq Ahmad Bhat's body was exhumed and given to his family.** The Superintendent of Police Bandipora, Sheikh Junaid, alleged that Afaq Ahmad Bhat "was associated with Jaish-e-Muhammad and Abu Bakr was his code name." Afaq Ahmad Bhat's family stated that he owned a garment shop and was a part-time student.	January 28, 2009 R: Baramulla district D: Bandipora district B: Bandipora district

Kralpora Graveyard, Kupwara District

Kharbagh, Kupwara District



Quazipora, Baramulla District

Quazipora, Baramulla District

Trehgam Village, Kupwara District

Trehgam Village, Kupwara District
Broken gravestones

VI. Recommendations

> Bodies. Blood. Death. Breath. Life. Every detail of our lives is filled with violence. Everyday is filled with violence. (Woman community member, Srinagar)[157]

Premised on investigations into the scope and expanse of unknown, unmarked, and mass graves, and the extrajudicial events that led to these massified killings and burials between 1990 and 2009, IPTK notes that the political and military actions of state in Indian-administered Jammu and Kashmir have regularized states of exception, and systemically enforced extra-legal governance.[158]

Over the last twenty-five years, exhumations of unknown, unmarked, and mass graves have been undertaken in Argentina, Iraqi Kurdistan, Rwanda, former Yugoslavia, and other places, as noted earlier in this report. The international community has largely utilized information on mass graves in organizing advocacy campaigns and used reliable information, when available, to evidence torture, murder, or complicity of regimes and states in crimes against humanity, war crimes, and genocide. While there are investigative norms for forensic and social sciences research, there is a deficit of regulations and protocols on the matter of unknown, unmarked, and mass graves in international human rights and humanitarian law. We urge the formulation of the above. We note as well that a mass grave itself may be a violation of international law, as per the Geneva Conventions.

We ask that the evidence put forward in this report be examined, verified, and reframed as relevant by credible, independent, and international bodies, and that international institutions ask that the Government of India comply with such investigations.

We ask that evidence from unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir be used to seek justice, through the sentencing of criminals and other judicial and social processes. As well, the existence of these graves, and how they came to be, may be understood as indicative of the effects and issue of militarization in Indian-administered Jammu and Kashmir, and the issues pertaining to militarization itself must be addressed seriously and expeditiously. In fact, the Indian state itself, through its legal, political, and military actions, has demonstrated the existence of a state of continuing conflict *within* Indian-administered Jammu and Kashmir.

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157 Personal communication, IPTK (2009).

158 We draw on Michel Foucault's elaboration of biopolitical governance see 2007; Michel Foucault. 2008. *The Birth of Biopolitics, Lectures at the Collège De France, 1978-1979*. Translation Graham Burchell. New York: Palgrave Macmillan.

IPTK urges the cessation of violence and cruelty, and resolution to the long-drawn conflict in Indian-administered Jammu and Kashmir. IPTK asks that appropriate measures to ascertain the truth of recent and present realities, ensure justice, provide reparation, and promote reconciliation be defined and undertaken.

IPTK notes that mass and intensified extrajudicial killings have been part of a sustained and widespread offensive by the military and paramilitary institutions of the Indian state against civilians of Jammu and Kashmir.

IPTK notes that the methodical and planned use of killing and violence in Indian-administered Jammu and Kashmir constitutes crimes against humanity.

IPTK notes that the military and paramilitary forces of the Indian state have acted with impunity to generate the threat and reality of continued violences, and create an infrastructure of reprisal and intimidation, and fear of death through various means, including murder.

IPTK notes that the authority and reach of the security apparatus of the Indian state in Jammu and Kashmir exemplifies what is *not* termed "military rule." Article 42 of the Hague Convention, which describes the conditions of "occupation," may be used in referring to the sanction and jurisdiction of the military and paramilitary in Indian-administered Jammu and Kashmir. Indian-administered Jammu and Kashmir, therefore, remains "under the authority of the hostile army" whose reach and "authority has been established and can be exercised."[159]

IPTK urges that Indian-administered Jammu and Kashmir be recognized as a conflict situation in a heavily militarized and nuclear zone, requiring that the international community act expeditiously to address the systemic dangers and injustices endemic to Indian rule.

IPTK notes that the security apparatus of the Indian state in Jammu and Kashmir routinely suppresses civil society dissent to militarization, prevalently nonviolent in the present. IPTK also notes that the actions of the Indian state and majoritarian Hindu nationalist groups continue to religionize the issue and create divisiveness between different faith and ethnic groups in Jammu and Kashmir.

We note the failure of the Government of India and the Government of Jammu and Kashmir to abide by their own laws, and international humanitarian law. Our investigations confirm that local, state, and central authorities, and the offices and mechanisms they have endowed and oversee, have been negligent with regard to their democratic, legal, and moral responsibilities in crucial ways.

The social facts presented in this report evidence in considerable detail the consequences of heightened militarization in Indian-administered Jammu and Kashmir. We note that the

159 Hague Convention. 1907. Laws and Customs of War on Land (Hague IV) Article 42.

international community and institutions have not examined the supposition of crimes against humanity in Indian-administered Jammu and Kashmir. We note that the United Nations and its member states have remained ineffective in containing and halting the adverse consequences of the Indians state's militarization in Kashmir.

We note that, unless Jammu and Kashmir and its peoples are central to conflict resolution strategies in and between India and Pakistan, the horrific present will continue to be indicative of Jammu and Kashmir's future. This will continue to render dangerous and unstable the conditions of life in Indian-administered Jammu and Kashmir and the border zones between India and Pakistan.

We acknowledge the gravity of the situation and the enormity of social suffering, and urge recognition of the culture of grief that envelops Indian-administered Jammu and Kashmir. We note that unless accountable mechanisms for safeguarding human rights and justice are urgently devised, existing conditions will compound cycles of violence, and exacerbate an already charged geopolitical space.

We underscore the merits of remedial and preventive action, and emphasize the imperative of citizen's interventions, even while the state and elected governments remain disinclined, as they have been, to act or react. We hold that citizens have a responsibility to respond to violations in order to challenge the existing culture of impunity that generally protects perpetrators from prosecution.

Premised on the above, IPTK seeks to make recommendations on the current acts and impacts of militarization that have resulted in unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir and corresponding human rights violations, highlighting the need to oppose such violations, to prevent further and future violence.

We note that, in order to commit to the cessation of violence, minimal measures are necessary to not further the existing violent conditions in Indian-administered Jammu and Kashmir. As well, we note that investigations into unknown, unmarked, and mass graves are crucial in enabling processes of truth, justice, and reconciliation in Jammu and Kashmir.

In proposing the following measures, we note that IPTK's recommendations are formulated in accordance with legal and customarily protected rights existing in Indian and international law. We note that IPTK's purpose is not to charge the individual accused but to determine procedures for accountability and justice, and to propose mechanisms for state responsibility.

I. Recommendations for the State of India, to be enacted by the Government of India and the Government of Jammu and Kashmir:

Unknown, Unmarked, and Mass Graves, Disappearances, and "Encounter" Killings

- The Government of India and the Government of Jammu and Kashmir must commit to, and enable, independent and transparent investigations into unknown, unmarked,

and mass graves, drawing upon varied, credible, and international expertise, and institute an independent and transparent commission of inquiry.

- The Government of India and Government of Jammu and Kashmir must offer to protect the sites of unknown, unmarked, and mass graves to not permit their desecration or destruction.
- Matters of investigation and redress must adhere to the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions [E.S.C. Res. 1989/65, Annex, 1989, U.N. ESCOR Supp. (No. 1) at 52, U.N. Doc. E/1989/89 (1989)], also see the Minnesota Protocol.
- The photographs and first information reports (FIRs) pertaining to those buried in unknown, unmarked, and mass graves across Jammu and Kashmir that are reportedly kept in police custody must be rendered into the public domain so that claimants may pursue their claim.
- In instances where local civilians and militants are killed in alleged "encounter" killings, relevant international human rights and humanitarian law must be applied in matters of redress.
- In instances where non-local persons are killed in alleged "encounter" killings, relevant international human rights and humanitarian law must be applied in matters of redress.
- The legal status of alleged "combatants" of all previous or forthcoming alleged "encounter" killings must be identified and rendered into the public domain. The rights of alleged "combatants" must be guaranteed. The rights of dead "combatants," and fulfilling legal obligations toward them, must be guaranteed.
- The premise, as stated by security personnel communiqué and published in newspapers in Jammu and Kashmir, and Delhi on July 12, 2008, that it is not possible to identify each and every militant that dies in alleged "encounter" killings must be held in contention. Investigation into every alleged "encounter" killing must take place as of value in itself, as well as a means to question the basis for repeated killings without substantive evidence as to the identities and activities of those killed.
- In instances of alleged cross-border infiltration, and large-scale infiltration, international human rights and humanitarian law must be applied to the civilians caught in the crossfire.
- The photographs of each person that henceforth allegedly dies in an "encounter" killing must be rendered into the public domain and widely circulated so that claimants may identify their kin/community members and pursue any claims.
- Each alleged "encounter" killing henceforth must be followed by a post mortem and the report of the post mortem must be rendered into the public domain.
- Each body from an alleged "encounter" killing henceforth should not be buried for a determined and agreed upon period, for example, seven days, so that claimants may identify their kin/community members and pursue any claims.
- Each instance of an alleged "encounter" killing henceforth must be followed by a magisterial inquiry in which the public must have the right to participate freely. The report and findings of the inquiry must be rendered into the public domain.

- Each grave henceforth should be marked with corresponding identification, including photographs.
- There are connections between the number of persons disappeared and these unmarked, unidentified, nameless, and unknown graves as documented in this report. Credible and independent investigations must be undertaken into all disappearances and staged killings since the conflict began. The names of those disappeared between 1989-2009 should be rendered into the public domain. The details of any investigations undertaken into these disappearances should be rendered into the public domain. Further, a full-scale investigation must be commissioned under provisions of the Commissions of Inquiry Act, 1952, and/or other relevant laws, to inquire into the disappearances within a stipulated and reasonable timeframe. As well, on the matter of disappearances, we also note that certain militants who have surrendered to the security forces have been disappeared in violation of *Habeas Corpus*, and that the chain of violations in these cases should be investigated.[160]
- Police personnel must be required to assist persons seeking to file first information reports. Victims/survivors and witnesses testifying to disappearances and killings must be guaranteed protection, including claimants and security forces personnel that wish to testify.
- Legal cases that have been pending in courts, and those that have not been filed, must be promptly dealt with and the perpetrators brought to justice. We ask that the Government of Jammu and Kashmir follow the cases pending for sanctions before the Government of India's Home Ministry under Section 7 of Armed Forces Special Powers Act, 1958. We ask that the state make public the number of cases in which sanctions have been sought from the Government of India, and the number of cases in which the same have been granted.
- The Supreme Court of India must follow up on the actions and investigations initiated by them or appeals for action submitted to them on the matter of unknown, unmarked, and mass graves and the matter of disappearances. The Supreme Court of India must examine its enshrinement of the impunity of the Armed Forces Special Powers Act, 1958, into written law through its judgment in the Masooda Parveen case (2007), adjudicating that security forces personnel could not be prosecuted for committing custodial killings if the individuals killed in custody were alleged militants.
- The National Human Rights Commission and the State Human Rights Commission of Jammu and Kashmir must follow up on the actions and investigations initiated by them or appeals for action submitted to them on the matter of unknown, unmarked, and mass graves and the matter of disappearances. The National Human Rights Commissions and the State Human Rights Commission of Jammu and Kashmir do not

160 As in the matter of twelve militants who were disappeared *after* they surrendered before Inspector Dogra in 2004. The Jammu and Kashmir High Court directed the Sessions Judge, Kupwara, to conduct a judicial inquiry in the matter. The district judge did not receive cooperation from the armed forces and sent the matter back to the High Court. The High Court directed the counsel for the Union of India to file a status report requiring Inspector Dogra to cooperate with the inquiry. The matter is pending before the High Court and no status report has been filed. Court documents on record with IPTK.

have jurisdiction over the armed forces. We urge that relevant laws be amended to permit them such jurisdiction.

- Civil society groups must be consulted in defining the conditions, terms, and parameters for reparation and compensation related to disappearances and killings. All those affected by the process, such as "half-widows," must be taken into account.
- International organizations must be allowed access to report on disappearances, torture, and unknown, unmarked, and mass graves in Jammu and Kashmir. We note that only certain international organizations, such as the ICRC (International Committee of the Red Cross), Médecins Sans Frontières, Human Rights Watch, Save the Children, and Action Aid International have been permitted selective access to Indian-administered Jammu and Kashmir. Amnesty International has not been permitted to work in Indian-administered Jammu and Kashmir. ICRC has a very limited mandate of reporting on the conditions of detainees. Unlike in other countries, ICRC has no mandate on reporting on disappearances, torture, and unknown, unmarked, and mass graves in Jammu and Kashmir.
- The recommendations of international institutions and bodies on the issue of unknown, unmarked, and mass graves, such as those made by the European Parliament Resolution P6_TA(2008)0366 of July 2008, must be acted upon with due diligence.

Military and Paramilitary Conduct, and the Use of Special Laws

- The Government of India must commit to, and enable, an independent and transparent inquiry into the actions of its military and paramilitary forces.
- All special laws and provisions of immunity that authorize the military and paramilitary forces to act with impunity must be revoked unconditionally.
- Security related legislation that is in contravention of international humanitarian laws and norms must be revoked and withdrawn, such as the Armed Forces Special Powers Act, 1958, enacted in Jammu and Kashmir in 1990, the Disturbed Areas Act, 1976, enacted in Jammu and Kashmir in 1992, the Jammu and Kashmir Public Safety Act, 1978, and the Unlawful Activities (Prevention) Act, 1967.
- Continued criminal proceedings using the Prevention of Terrorism Act, 2002, and the Terrorist and Disruptive Activities (Prevention) Act, 1985, 1987, must be stopped.
- Matters of safety and security of citizens must be prioritized, and, in so doing, certain national security laws that are used to proscribe political dissent and deny freedom of expression, freedom of speech, and freedom of assembly, and deny the democratic right to peaceful mobilization, must be revoked.
- Certain national security laws, in the name of retributive justice, have been used to perpetrate state violence, subvert due process of law, undermine civil liberties and freedom of the press, erode rule of law, permit torture and sexualized violence on those in state custody, criminalize innocent persons, and, in effect, undermine the safety and security of citizens. The use of these laws and the practices they enable must immediately cease.
- All laws of Jammu and Kashmir must incorporate the premise of the United Nations Declaration on the Protection of All Persons From Enforced Disappearance, the

International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Detention and Torture

- In conjunction, detention and torture centres, including in army camps, must be identified, made public, and dismantled. All detention and torture centres must be prohibited. We ask that international institutions, such as the International Committee of the Red Cross (ICRC), be permitted to visit the above places to assess the situation independently.
- Further, the use of torture by military and paramilitary forces is widespread in Jammu and Kashmir and must be prohibited.
- The Government of India must ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which it has been a signatory since October 1997. The Government of India must ratify the International Convention for the Protection of All Persons from Enforced Disappearance, to which it has been a signatory since February 2007. The Government of Jammu and Kashmir must institute a comprehensive ban on practises of torture as defined by international law and humanitarian ethics.

II. Recommendations for International Bodies and Institutions:

We remain mindful of the political/policy borders and boundaries that mediate issues of sovereignty between nations. The implicit assumption is that actions to uphold human rights, civil liberties, and democratic governance by international institutions contribute significantly to international discourse in ways that are beneficial globally. The following submission is an appeal for ethical negotiation between the international community, the peoples of Indian-administered Jammu and Kashmir, and the Government of India.

We urge that:

- International institutions, such as the various United Nations bodies with responsibility on the matter of Indian-administered Jammu and Kashmir, such as the Office of the High Commissioner for Human Rights, monitor and take action on the issue of unknown, unmarked, and mass graves, and attendant concerns of accountability and justice.
- The United Nations Military Observer Group in India and Pakistan (UNMOGIP), stationed in Indian-administered Jammu and Kashmir, be empowered and authorized to inquire into, and make recommendations on, the status of militarization in Indian-administered Jammu and Kashmir. Such recommendations must then be implemented.
- Human rights and social justice organizations and citizen's bodies, such as Amnesty International and Human Rights Watch, continue to follow and inquire into the issue of unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir.

- International organizations report on disappearances, torture, and unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir. We ask that ICRC create a mandate on reporting on disappearances, torture, and unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir.
- Institutions of state, such as the European Parliament Subcommittee on Human Rights and the Tom Lantos Human Rights Commission of the United States Congress, hold India accountable on the issue of unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir.
- The European Parliament seeks the implementation of Resolution P6_TA(2008)0366 of July 2008 on the issue of unknown, unmarked, and mass graves.
- Independent processes of investigation on single, multiple, and mass graves in Indian-administered Jammu and Kashmir be enabled. This would require the development of investigative and protocol parameters. Where domestic remedies have been exhausted, international remedies must be followed or developed, and applied. Most importantly, it would require commitment and sanction on the part of appropriate international institutions and platforms to adjudicate on the failures of states, and seek accountability. In urging the development of parameters and protocols for investigation and action on the issue of unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir, we note that global practise on the issue of unknown, unmarked, and mass graves includes useful precedents. In Argentina, the National Commission on the Disappearance of Persons was appointed to investigate the disappearance of 9,800 people between 1976-1983. The Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense), established in 1984, has been working in 30 different countries including East Timor, Ivory Coast, and Sierra Leone. Physicians for Human Rights has carried out forensic investigations in different conflict areas. The International Commission on Missing Persons (ICMP), established at the G-7 summit in 1996 as a mission to former Yugoslavia, has since been expanded to the Kosovo conflict, and to Macedonia and Iraq. In the mid-1990s, a joint exhumation process was initiated to exhume human remains buried on the territories of the Federation of Bosnia and Herzegovina and Republikca Srpska, coordinated by the Office of the High Representative and European Union Special Representative in Bosnia and Herzegovina.
- Nation-states with economic, cultural, political, and diplomatic relations with the Government of India ensure that human rights, civil liberties, and rule of law are respected and adhered to. We ask that these nation-states ensure that international human rights and independent monitoring groups be invited to Indian-administered Jammu and Kashmir on a regular basis to monitor the status of human rights.
- All bilateral projects that involve Indian-administered Jammu and Kashmir be assessed for their human rights implications.

Sogam Village, Lolab Area, Kupwara District

Raja Mohalla, Main Uri, Baramulla District

Wilgam Martyr Graveyard, Kupwara District

Chandigam Village Graveyard, Lolab Area, Kupwara District

Appendix I: First Information Report from IPTK Convener

To: The Station House Officer
Chanpora Police Station

From: Advocate Mr. Parvez Imroz
Kralpora, Tehsil Chadura
District Badgam

Subject: First Information Report
Tuesday, 1 July 2008

I am a human rights lawyer practising in the Srinagar High Court. I am a resident of Kralpura village, approximately 8 kilometres from Srinagar.

On 30 June 2008, at about 10.10 pm, when my family and I were about to retire for the evening, Roksana, my wife informed me that there was a knock at the front door. She was extremely afraid, given the two prior assassination attempts on my life. My wife and I asked "Who are you?" to those at the front door. They responded aggressively, asking me by name to open the door. I was apprehensive after the intimidation of the Tribunal last week when it was undertaking a fact-finding on mass graves in Baramulla and Kupwara. I went to another room at the back of the house and shouted across to my brother who lived next door. My brother shined a torch at my door and asked the persons at the front door to identify themselves. The persons knocking at the door very aggressively asked my brother to switch off the torch. Meanwhile, my nephew came out of my brother's house and ran toward my house, fearful, as he stated later, that I was being taken by the army.

Then, the perpetrators fired one shot in the dark, and it appeared that shot was fired in the direction that my nephew was coming from. The lights on the main road had been broken.

After seconds, the perpetrators threw a grenade in my compound outside my front door, which exploded into a fireball. They also threw a tear gas and fired two blank shots while leaving.

The perpetrators left at around approximately 10.30 pm. On the way, the perpetrators beat one male neighbour.

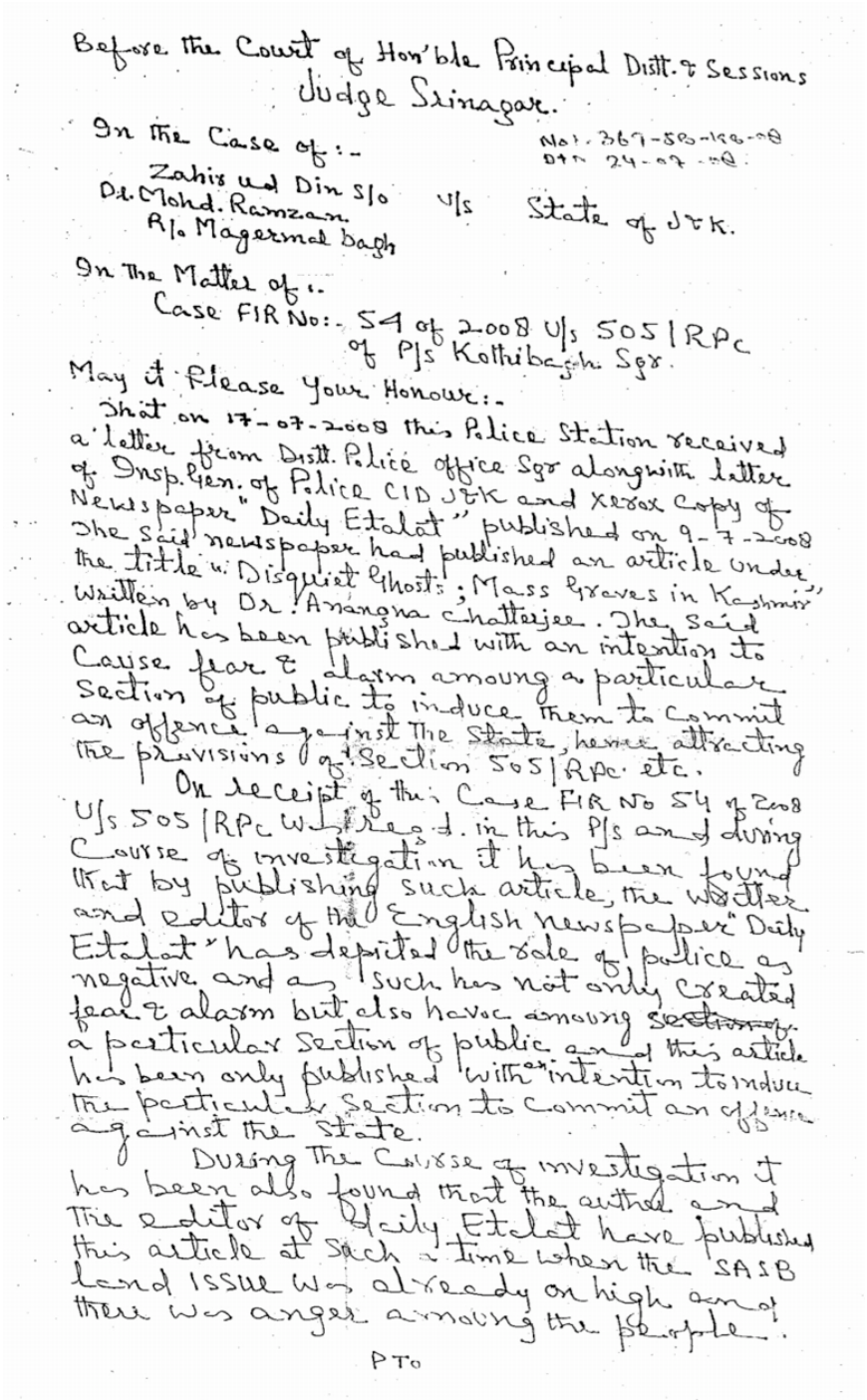
Meanwhile, community members had made an announcement from the village mosque, and people had gathered down the path. The villagers also stated that they had seen one large armoured vehicle and two Gypsy cars, and men in CRPF (Central Reserve Police Force) uniform and SOG (Special Operations Group) uniform.

This is a murder attempt on my life. I request the authorities to treat this as a First Information Report. I request the authorities to the needful under the provisions of the law.

Sincerely,

Parvez Imroz

Appendix II: First Information Report on IPTK Conveners



Before the Court of Hon'ble Principal Distt. & Sessions Judge Srinagar.

In the Case of :-

Zahir ud Din S/o Dr. Mohd. Ramzan R/o Magermal bagh — V/s — State of J&K.

No: 367-SS-128-08
Dtd 24-07-08

In the Matter of :-

Case FIR No:- 54 of 2008 U/s 505 RPC of P/s Kothibagh Sgr.

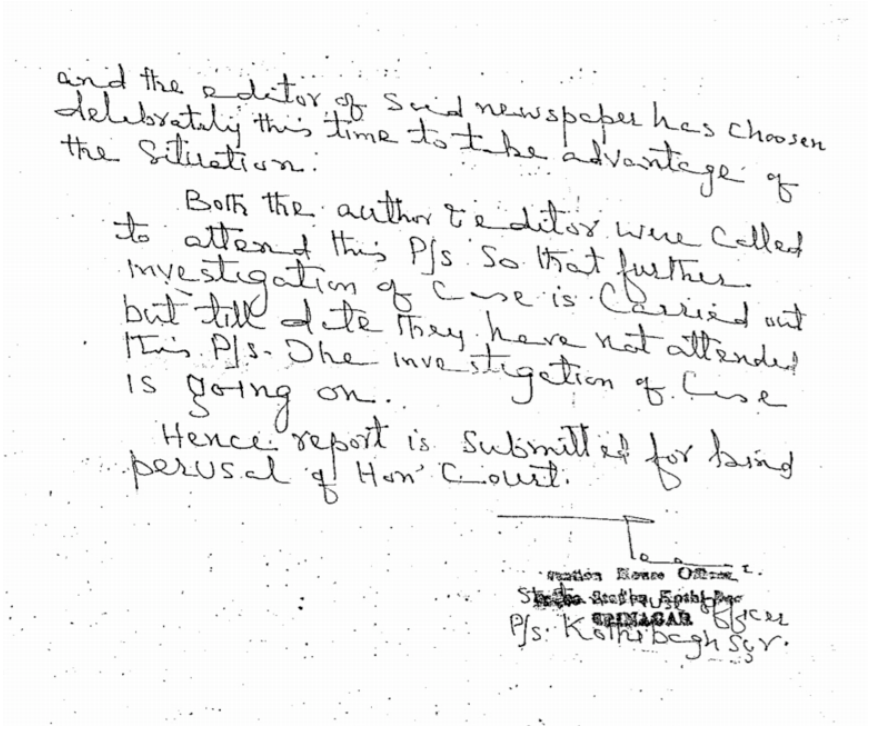
May it Please Your Honour :-

That on 17-07-2008 this Police Station received a letter from Distt. Police office Sgr alongwith letter of Dnsp. Gen. of Police CID J&K and Xerox Copy of Newspaper "Daily Etalat" published on 9-7-2008 the said newspaper had published an article under the title "Disquiet Ghosts ; Mass Graves in Kashmir" written by Dr. Anangna Chatterjee. The said article has been published with an intention to cause fear & alarm among a particular section of public to induce them to commit an offence against the State, hence attracting the provisions of Section 505 RPC etc.

On receipt of this Case FIR No 54 of 2008 U/s 505 RPC was reg'd. in this P/s and during course of investigation it has been found that by publishing such article, the writer and editor of the English newspaper "Daily Etalat" has depicted the role of police as negative and as such has not only created fear & alarm but also havoc among ~~section~~ a particular Section of public and this article has been only published with intention to induce the particular Section to commit an offence against the state.

During the Course of investigation it has been also found that the author and the editor of Daily Etalat have published this article at such a time when the SAS Land ISSUE was already on high and there was anger among the people.

PTO



and the editor of Said newspaper has Choosen deliberately this time to take advantage of the Situation.

Both the author & editor were called to attend this P/S So that further investigation of Case is Carried out but till date they have not attended this P/S. The investigation of Case is going on.

Hence report is Submitted for kind perusal of Hon' Court.

Station House Officer
SRINAGAR
P/S: Kothi Bagh Sgr.

Appendix III: Human Rights Council Letter of Allegations and Government of India's Response

Text of the Human Rights Council, United Nations, Letter of allegations sent on July 8, 2008, inquiring into the intimidation and harassment of Chatterji and Imroz.

Text of the Government of India's response on March 19, 2009, denying the allegations.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL
A/HRC/11/4/Add.1
27 May 2009
ENGLISH/FRENCH/SPANISH

HUMAN RIGHTS COUNCIL
Eleventh session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

The right to freedom of opinion and expression

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*

Addendum
SUMMARY OF CASES TRANSMITTED TO GOVERNMENTS AND REPLIES

RECEIVED**
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Letter of allegations sent on 8 July 2008

1083. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning Dr Andana [Angana] Chatterji convener of the International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir and Mr Parvez Imroz, lawyer and also convener of the tribunal, who have been subjected to intimidation and harassment. The civil society established tribunal, which began on 5 April 2008, was created in order to investigate allegations of systematic violence and human rights violations in Indian-administered Kashmir.

1084. According to information received, on 21 June 2008, Dr Andana [Angana] Chatterji was followed from her hotel to the office of the tribunal by eight members of the intelligence service, who remained outside the office throughout the day and questioned anybody entering or leaving the building.

1085. The previous day, 20 June, Dr Andana [Angana] Chatterji and Mr Parvez Imroz had been visiting mass graves in Indian-administered Kashmir and in the course of the day had been questioned by twelve intelligence personnel from Special Branch Kashmir (SBK) and Counter Intelligence Kashmir (CIK) regarding their activities, the villages they had visited and whether they had taken photographic or video evidence of what they had observed.

1086. After being questioned, they were followed and their vehicle was forcibly boarded in Shangargund, Sopore by members of intelligence personnel who did not show identification. They were then briefly detained at a police station where officers confiscated their tapes, claiming they contained objectionable and dangerous material and from where they were followed once again.

1087. Dr Andana [Angana] Chatterji has previously been subject to harassment and intimidation. In April 2008, after announcing the formation of the tribunal, she was stopped and intimidated at immigration control when leaving India for the USA, where she is resident. In June 2008, when she was returning to India, she was subjected to similar treatment.

1088. Concern was expressed that the intimidation and questioning of Dr Andana [Angana] Chatterji and Mr Parvez Imroz may be directly related to their activities in defense of human rights, in particular in their role in the civil society established International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir. Further concern was expressed for the physical and psychological integrity of both individuals. Finally, concern

was expressed that the incidents outlined may represent an attempt to restrict the work of the individuals, including as a lawyer, in addressing human rights violations in the region.

Response from the Government

1089. In a letter dated 19 March 2009, the Government responded to the communication sent by the Special Rapporteurs on 8 July 2008. The Government provided the following information: "The Government of India rejects the allegations leveled by Dr. Angana Chatterji and Advocate Parvez Imroz. Owing to the fact that Jammu and Kashmir is a sensitive border State of India, that has been a victim of cross-border terrorism for nearly two decades, any person venturing near the Line of Control (LoC) without informing the authorities, is liable to be questioned and asked to prove credentials by the law enforcing agencies. Since Dr. Chatterji and Advocate Parvez Imroz had been frequently visiting areas falling close to the Line of Control without informing the authorities, they may have been stopped by the law enforcing agencies for ascertaining the purpose of their visit close to the Line of Control. Such actions are necessary to maintain public order in a terrorism-prone area and cannot be termed as harassment/intimidation. It may also be noted that a vigil over the movement of foreigners in such a sensitive State is for their own safety as well as to prevent activities by them that might cause public disorder."

Appendix IV: Relevant Conventions and India's Status

1. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
Status: Signed on October 12, 1997, has not ratified it

2. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2006)
Status: Signed on October 12 ,1997, has not ratified it

3. Convention on the Declaration of Death of Missing Persons
Status: Terminated January 24, 1972

4. Convention on the Elimination of All Forms of Discrimination against Women (1979)
Status: Ratification July 9, 1993

5. Convention on the Rights of the Child (1990)
Status: Accession December 11, 1992

6. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)
Status: Adopted by General Assembly resolution 47/135 of December 18, 1992 without a vote

7. General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"
Status: India voted in favour of the resolution

8. International Covenant on Civil and Political Rights (1966)
Status: Accession April 10, 1979

9. Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989)
Status: India is not a signatory

10. International Convention for the Protection of All Persons from Enforced Disappearance (2006)
Status: Signed February 6, 2007, not yet ratified; Convention has not yet entered into force

11. International Covenant on Economic, Social and Cultural Rights (1966)
Status: Accession April 10, 1979

12. International Convention on the Elimination of All Forms of Racial Discrimination (1966)
Status: Ratified December 3, 1968

13. ILO Forced Labour Convention (1930)
Status: Ratified November 30, 1954

14. ILO Abolition of Forced Labour Convention (1957)
Status: Ratified May 18, 2000

15. United Nations Charter (1945)
Status: Ratified October 30, 1945

16. Universal Declaration of Human Rights (1948)
Status: India voted in favour of the adoption of the Declaration by the UN General Assembly in 1948.

Appendix V: List of Photographs
As used in the report, in the order that they appear

Page 4 Kharbagh, Kupwara District
Chehal Village, Uri Area, Baramulla District

Page 6 Ajas Graveyard, Bandipora District
Kichama Village, Sheeri Area, Baramulla District

Page 8 Regipora Village, Kupwara District

Page 19 Hamam Markote, Baramulla District

Page 20 Kanenar Kalarus Grave, Kupwara District / Grave with 17 bodies

Page 32 Chewah Graveyard, Safapora, Bandipora District
Lachipora B, Chakipora, Baramulla District

Page 44 Regipora Village, Kupwara District
Mayan, Muqampeera, Baramulla District

Page 45 Marsari, Tee Pee Road, Chowkibal, Kupwara District

Page 46 Kharbagh, Kupwara District

Page 53 Kalarus Area, Kupwara District
Tumina Village, Chowkibal Area, Kupwara District

Page 54 Chehal Village, Uri Area, Baramulla District

Page 60 Kichama Village, Sheeri Area, Baramulla District
Kichama Village, Sheeri Area, Baramulla District

Page 61 Mir Mohalla, Kichama, Baramulla District
Lachipora A, Rawathpora, Baramulla District

Page 62 Waripora Graveyard, Pahlipora, Bandipora District

Page 67 Bazipora Graveyard, Bandipora District
Hajam Mohalla Graveyard, Bandipora District

Page 68 Sumbal Graveyard, Batmohalla, Bandipora District
Koalpora Graveyard, Bandipora District

Page 84 Kralpora Graveyard, Kupwara District
Kharbagh, Kupwara District

Page 85 Quazipora, Baramulla District
Quazipora, Baramulla District

Page 86 Trehgam Village, Kupwara District
Trehgam Village, Kupwara District / Broken gravestones

Page 95 Sogam Village, Lolab Area, Kupwara District
Raja Mohalla, Main Uri, Baramulla District

Page 96 Wilgam Martyr Graveyard, Kupwara District
Chandigam Village Graveyard, Lolab Area, Kupwara District

Page 105 Sedarpora Kandi, Kupwara District
Sedarpora Kandi, Kupwara District

Page 106 Chehal Village, Uri Area, Baramulla District
Bijhama, Baramulla District / Adjacent to police station

Page 107 Waripora Graveyard, Pahlipora, Bandipora

Page 108 Regipora Village, Kupwara District

Sedarpora Kandi, Kupwara District

Sedarpora Kandi, Kupwara District

Chehal Village, Uri Area, Baramulla District

Bijhama, Baramulla District
Adjacent to police station

Waripora Graveyard, Pahlipora, Bandipora District

Regipora Village, Kupwara District

BURIED EVIDENCE documents the violences of militarization in Indian-administered Kashmir. In Kashmir, between 1989-2009, the actions of the military and paramilitary have resulted in 8,000+ enforced disappearances and 70,000+ deaths, including through extrajudicial or "fake encounter" executions, custodial brutality, and other means. Based on applied research conducted between November 2006-November 2009, this report documents 2,700 unknown, unmarked, and mass graves, containing 2,943+ bodies, across 55 villages in Bandipora, Baramulla, and Kupwara districts of Kashmir.

The report documents in considerable detail how the actions of military and paramilitary forces in Kashmir inflict terror on the local population, disbursed through "extrajudicial" means and those authorized by law. In the enduring conflict, 6,67,000 military and paramilitary personnel act with impunity to regulate movement, law, and order across Kashmir. Official state discourse conflates cross-border militancy with present nonviolent struggles by local Kashmiri groups for political and territorial self-determination, portraying local resistance as "terrorist" activity.

Based on its findings, the International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir recommends that Indian-administered Kashmir be recognized as a conflict situation in a heavily militarized and nuclear zone, requiring that the international community act expeditiously to address the systemic dangers, violences, and injustices endemic to Indian rule.

International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir
www.kashmirprocess.org